

April 17, 2024

Anne R. Helzer  
Municipal Attorney  
Municipality of Anchorage  
632 W 7th Ave, Ste 730  
Anchorage, AK 99501

**Re: Assembly Subpoena for Owners – AWWU Term Sheet and Common Interest Agreement**

Dear Anne:

Thank you for informing us of your receipt of a confidential subpoena and the Assembly's new demand to produce the Owners – AWWU Term Sheet and Common Interest Agreement within 24 hours. The owners of the Eklutna Hydroelectric Project ("Owners") oppose production of these documents to the Assembly and their counsel except under the two conditions already approved: 1) in camera review or 2) review and retention after signing of the Confidentiality Acknowledgement previously approved.

We cannot agree to the Assembly's demand for the documents for the Assembly to determine independently whether to publicly release them because such action would violate the confidentiality, joint legal privilege, and joint defense commitments among the Owners. The three Owners have been collaborating for years on the implementation of the 1991 Agreement.<sup>1</sup> In an effort to have full and frank discussions, exchange information, pool their individual work product (including that of the Owners' attorneys and their attorney-client privileged communications), and cooperate in a joint effort to implement the 1991 Agreement, all without waiving parties' attorney-client and other privileges, the Owners entered into a Common Interest Agreement on September 15, 2017.

We do not see how the Anchorage Assembly is somehow not bound by the Common Interest Agreement as part of the Municipality of Anchorage; consequently, we do not agree that the Assembly has an independent or unilateral right to publicly release documents subject to the Common Interest Agreement. The Owners have no interest in allowing the term sheet to be publicly released at this time as we are bringing together our Proposed Final Fish and Wildlife Program for public submission to the Governor. As stated in the Common Interest Agreement, "[n]o party shall have the authority to waive any applicable privilege or defense on behalf of any

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<sup>1</sup> Agreement among the Municipality of Anchorage, d/b/a Anchorage Municipal Light and Power, Chugach Electric Association, Inc., Matanuska Electric Association, Inc., U.S. Fish and Wildlife Services, National Marine Fisheries Services, Alaska Energy Authority, and the State of Alaska, relative to the Eklutna and Snettisham Hydroelectric Projects, dated August 7, 1991 (the "1991 Agreement").

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other party without such other party's written or electronic consent." To be clear, Chugach and MEA do not waive their rights under the Common Interest Agreement with respect to the Owners – AWWU Term Sheet or the Common Interest Agreement.

Accordingly, please take all steps necessary to protect the confidentiality of the documents and our joint privileges as required under the Common Interest Agreement. We reserve all rights and remedies at law and at equity with respect to Common Interest Agreement and confidential materials protected by it.

Sincerely,

WILSON SONSINI GOODRICH & ROSATI  
Professional Corporation



Todd G. Glass  
Alaska Bar # 1810083

cc: Mike McLaughlin, Shareholder, Guess & Rudd  
Matt Clarkson, Chief Legal Officer, Chugach Electric Association, Inc.  
David Pease, General Counsel, Matanuska Electric Association, Inc.  
Ben Bowman, Assistant Municipal Attorney, Municipality of Anchorage