

LAI

Submitted by: Assembly Chair Constant
Assembly Vice Chair Zaletel
Prepared by: Assembly Counsel's Office
For reading: July 19, 2024

**ANCHORAGE, ALASKA
AR No. 2024-218(S)**

1 **A RESOLUTION OF THE ANCHORAGE ASSEMBLY FORMALLY SUBMITTING**
2 **ITS COMMENT AS THE MAJORITY OWNER OF THE EKLUTNA**
3 **HYDROELECTRIC PROJECT AS REQUIRED BY 1991 FISH AND WILDLIFE**
4 **AGREEMENT INCLUDING A REQUEST FOR A TWO-YEAR EXTENSION TO**
5 **RESOLVE DISAGREEMENTS REGARDING THE PROPOSED FINAL FISH AND**
6 **WILDLIFE PROGRAM OF THE EKLUTNA HYDROELECTRIC PROJECT FOR**
7 **GUBERNATORIAL APPROVAL.**
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9
10 **WHEREAS**, the Municipality of Anchorage, Chugach Electric Association (CEA),
11 and Matanuska Electric Association (MEA) (collectively “the Hydroelectric Project
12 Owners”) jointly own the Eklutna Hydroelectric Project and are parties to the 1991
13 Fish and Wildlife Agreement (the “1991 Agreement”) with the State of Alaska, the
14 U.S. Fish and Wildlife Service, and the National Marine Fisheries Service (an
15 agreement that notably excludes a key stakeholder, the Native Village of Eklutna
16 (“NVE”), the federally recognized tribe whose ancestral homelands **are**
17 encompassed by this project) to fund studies to examine and quantify the impacts
18 of the Eklutna Power Project on fish and wildlife; examine and develop proposals
19 for the protection, mitigation, and enhancement of fish and wildlife affected by such
20 hydroelectric development; and prepare a Proposed Final Fish and Wildlife Program
21 (the “Fish and Wildlife Program”) for approval by the Governor; and
22

23 **WHEREAS**, **if[once]** approved by the Governor, the Proposed Fish and Wildlife
24 Program will have significant impacts on the operations of the Eklutna Hydroelectric
25 Project and the Anchorage Water and Wastewater Utility (“AWWU”), **as well as**
26 **Anchorage taxpayers and ratepayers** for the next 35 years; and
27

28 **WHEREAS**, the 1991 Agreement directs the Governor to give equal consideration
29 to the purposes of

- 30 • efficient and economical power production,
- 31 • energy conservation,
- 32 • the protection, mitigation of damage to, and enhancement of fish and wildlife
33 (including related spawning grounds and habitat),
- 34 • the protection of recreation opportunities,
- 35 • municipal water supplies,
- 36 • the preservation of other aspects of environmental quality,
- 37 • other beneficial public uses, and
- 38 • requirements of State law;

39 and
40

41 **WHEREAS**, in their Proposed Final Fish and Wildlife Program to mitigate their
42 impacts to fish and wildlife pursuant to the 1991 Agreement, the Chugach Electric

1 Association and Matanuska Electric Association propose to utilize AWWU
2 infrastructure to deliver water into the Eklutna River via a Portal Valve (the “Portal
3 Valve Alternative”) one mile downstream of Eklutna Lake, leaving that mile
4 dewatered and impassable to salmon; and

5
6 **WHEREAS**, the policy of the Municipality of Anchorage has been to support
7 restoration of the full length Eklutna River since the Anchorage Assembly adopted
8 AR 2017-324(S), “A Resolution in Support of Efforts to Restore the Eklutna River,”
9 AR 2022–262, As Amended, “A Resolution of the Anchorage Municipal Assembly
10 in Support of Efforts to Restore the Eklutna River,” and AR 2024-40, As Amended,
11 “A Resolution of the Anchorage Assembly Submitting Public Comment on the Draft
12 Fish and Wildlife Program for the Eklutna Hydroelectric Project”; and

13
14 **WHEREAS**, through the passage of AO 2023-131, As Amended, the Assembly,
15 through the creation of a specific law enacting Anchorage Municipal Code section
16 26.30.025, reinforced and declared that it is the official policy of the Municipality of
17 Anchorage, inclusive of the Anchorage Hydropower Utility, to “restore the
18 continuous water flow of the Eklutna River and the fish populations of the River and
19 Eklutna Lake, to the greatest extent possible, subject to all provisions of the 1991
20 Agreement”; and

21
22 **WHEREAS, the Assembly, through the passage of both AR 2024-40, As**
23 **Amended, and AR 2024-182(S-1), has repeatedly requested the other**
24 **Hydroelectric Project Owners to seek a two-year extension of the 1991**
25 **Agreement from the signatories to perform additional analysis, consultation,**
26 **and coordination with affected parties, including the Anchorage Assembly**
27 **and the Native Village of Eklutna; and**

28
29 **WHEREAS**, on April 26, 2024, the former mayor submitted a letter in support of the
30 Eklutna Hydroelectric Project, however, those comments were not adopted or
31 approved by the Assembly as required by AMC 26.30.025 and cannot be considered
32 official comments of the Municipality as a matter of law; and.

33
34 **WHEREAS**, on July 2, 2024, a Director of the Anchorage Hydropower Utility was
35 appointed by Mayor LaFrance and was confirmed by the Assembly through AM 550-
36 2024; this Director is a licensed professional engineer with extensive experience in
37 utility operations and knowledge of the Railbelt generation and transmission
38 systems, and is the Municipality’s voting seat on the Eklutna Hydroelectric Project
39 owners’ group which has been vacant in recent years disenfranchising the
40 Municipality of its vote; and

41
42 **WHEREAS**, with the appointment and confirmation of this Director, the Municipality
43 of Anchorage **has[intends to] filed** expediently with the Regulatory Commission of
44 Alaska (“RCA”) **a notice and request for acknowledgment (Docket #U-24-XXXX)**
45 **[for consideration]** that the Municipality has acquired the expertise required to fully
46 participate as a voting member of the Eklutna Operating Committee and regain its
47 53.33% voting right; now, therefore

48
49 **THE ANCHORAGE ASSEMBLY RESOLVES:**
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1 **Section 1.** For the reasons described in this Resolution, in addition to the process
 2 and technical concerns put forth through AR 2024-182(S-1), the Anchorage
 3 Assembly requests the Governor **attempt to reconcile differences between the**
 4 **parties as called for in the 1991 Agreement by establishing a final program**
 5 **that requires the owners group use two years of the three-year pre-**
 6 **implementation period to identify an alternative infrastructure and**
 7 **engineering solution to ensure continuous water flow to all 12 miles of the**
 8 **Eklutna River. Since the AWWU Portal Valve must not be used to implement**
 9 **this measure, this will enable the owners to define and develop [approve a**
 10 **two-year extension of the Final Fish and Wildlife Program. A two-year**
 11 **extension will allow the Municipality to have its vote on implementation of the**
 12 **1991 Agreement reinstated prior to a reengagement with the other Eklutna**
 13 **Owners and stakeholders, including closer coordination and collaboration**
 14 **with the Alaska Department of Fish and Game and NVE. Additional time will**
 15 **allow the MOA to present]** a practical alternative that will:

- 16 - Ensure river restoration **of continuous waterflow to all 12 miles of the**
 17 **Eklutna River[to the greatest extent possible],**
- 18 - Protect drinking water supply for Anchorage residents, and
- 19 - Further contribute to a reliable, affordable energy future for Southcentral
 20 Alaska.

21 **We also urge the Governor to remove the “limited reopeners” from the final**
 22 **program to enable the owners to remain open on an ongoing basis to**
 23 **additional river restoration solutions as technology and conditions**
 24 **evolve.[The 1991 Agreement requires the Governor to “attempt to reconcile**
 25 **any differences between the parties.”^{4]}** The MOA’s position is clear: the proposed
 26 final Program should not be adopted in its current form. Ultimately, the policy
 27 direction of the Eklutna River should reflect the will of Anchorage residents, who will
 28 bear significant financial, social, and environmental costs of the final restoration plan
 29 into the future.

30
 31 **Section 2.** The Anchorage Assembly hereby finds the letter attached to AM 557-
 32 2024 from Mayor LaFrance to Governor Dunleavy dated July 19, 2024, regarding
 33 this matter is aligned with the official adopted policy of the Municipality and approves
 34 the comments therein.

35
 36 **Section 3.** This resolution shall be effective immediately upon passage and
 37 approval by the Assembly.

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 39 PASSED AND APPROVED by the Anchorage Assembly this _____ day
 40 of _____, 2024.

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 42
 43
 44 _____
 45 Chair of the Assembly

ATTEST:

 [1 1991 Fish and Wildlife Agreement, Section 5]

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Municipal Clerk

