



OFFICE OF THE GOVERNOR

Governor Mike Dunleavy
STATE OF ALASKA

August 15, 2024

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RE: Final Proposed Fish and Wildlife Program, Eklutna Hydro Project

Dear Parties:

On behalf of Governor Dunleavy, thank you for your recent submissions concerning the Final Proposed Fish and Wildlife Program for the Eklutna Hydro Project in accordance with the 1991 Fish and Wildlife Agreement (Agreement). The Governor is cognizant of the importance of this issue to all involved. Pursuant to his responsibilities under the Agreement – to review the final proposed program and attempt to reconcile differences – the Governor wants to obtain additional

information from the parties to the Agreement, and the Native Village of Eklutna, concerning the Owners' final proposed program and all subsequently received comments.

With the assistance of the Alaska Department of Law, I will conduct a meeting on the Governor's behalf where each of you can present your position, respond to questions about the submissions, and make arguments on various legal issues that have arisen in the submissions. Although your participation is not mandatory, your involvement will certainly assist the Governor in rendering his decision as required by the Agreement.

Accordingly, the meeting is scheduled for September 9, 2024, at 1 P.M., in the North Conference Room on the 17th floor of the Atwood Building. This meeting is not open to the public, and due to space limitations, each party will be permitted to bring two representatives, including attorneys, that may participate concerning the legal issues outlined below. Each party will be provided 15 minutes to present their position on the program and legal issues. For this purpose, the Owners' group will be allotted two 15 minute slots divided as follows: a combined 15 minutes for Chugach Electric Association, Inc. (CEA) and Matanuska Electric Association, Inc. (MEA); and 15 minutes for the Municipality of Anchorage (MOA). Additionally, the Fish and Wildlife Service, the National Marine Fisheries Service, the Alaska Energy Authority, and the Native Village of Eklutna will each be provided with 15 minutes for a presentation. Your attendance is encouraged, even if your party chooses not to provide a presentation.

To adequately prepare for the meeting, I request each of the parties, and the Native Village of Eklutna, provide a legal brief (Brief) to share your perspective on the following issues:

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

The Briefs shall be limited to 25 pages per party. Similar to above, for purposes of the Briefs CEA and MEA are considered one party and should submit a joint Brief. Please submit Briefs via email to rachel.bylsma@alaska.gov, with a copy to all parties, and the Native Village of Eklutna, by close of business on September 4, 2024. Parties shall not submit responses to the submission of other parties. If a party does not plan to submit a Brief, please let me know in advance of the deadline. Your attendance and participation is encouraged, even if your party

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chooses not to submit a Brief. For questions regarding the meeting please contact Gene Hickey, Senior Assistant Attorney General, at 907-465-6713 or via email at gene.hickey@alaska.gov. Please RSVP by August 29, 2024, and provide the names of your attendees to Juliana Soane at 907-269-7450 or via email at juliana.soane@alaska.gov.

The Governor appreciates the efforts of all involved and we look forward to the meeting on September 9, 2024.

Sincerely,



Rachel Bylsma
Deputy Chief of Staff