

Municipal Clerk's Office

**Approved**

Date: **June 25, 2024**

Submitted by: Assembly Vice Chair Zaletel

Assembly Chair Constant

Prepared by: Legislative Services

Reviewed by: Assembly Counsel's Office

(S) For reading: June 25, 2024

## **ANCHORAGE, ALASKA**

### **AR No. 2024-182(S-1)**

1 **A RESOLUTION OF THE MUNICIPALITY OF ANCHORAGE SUBMITTING**  
2 **PUBLIC COMMENT ON THE PROPOSED FINAL FISH AND WILDLIFE**  
3 **PROGRAM FOR THE EKLUTNA HYDROELECTRIC PROJECT AS**  
4 **TRANSMITTED TO THE GOVERNOR.**  
5

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6  
7 **WHEREAS**, the Municipality of Anchorage, Chugach Electric Association (CEA),  
8 and Matanuska Electric Association (MEA) (collectively “the Hydroelectric Project  
9 Owners”) jointly own the Eklutna Hydroelectric Project and are parties to the 1991  
10 Fish and Wildlife Agreement (the “1991 Agreement”) with the State of Alaska, the  
11 U.S. Fish and Wildlife Service and the National Marine Fisheries Service, ~~[(]an~~  
12 ~~agreement that notably excludes a key stakeholder, the Native Village of Eklutna,~~  
13 ~~the federally recognized tribe whose ancestral homelands encompass this~~  
14 ~~project;[)]~~ to fund studies to examine and quantify the impacts of the Eklutna Power  
15 Project on fish and wildlife; examine and develop proposals for the protection,  
16 mitigation, and enhancement of fish and wildlife affected by such hydroelectric  
17 development; and prepare a ~~p[P]roposed~~ Final Fish and Wildlife Program ~~[(THE~~  
18 **“FISH AND WILDLIFE PROGRAM”)]** for approval by the Governor; and  
19

20 **WHEREAS**, once approved by the Governor, the Fish and Wildlife Program **[WILL]**  
21 **proposes to** contractually bind operations of the Eklutna Hydroelectric Project and  
22 Anchorage Water and Wastewater Utility (“AWWU”) for the next 35 years; and  
23

24 **WHEREAS**, in their **Proposed Final [DRAFT]** Fish and Wildlife Program to mitigate  
25 their impacts to fish and wildlife pursuant to the 1991 Agreement, the Hydroelectric  
26 Project Owners propose to utilize AWWU infrastructure to deliver water into the  
27 Eklutna River via a Portal Valve (the “Portal Valve Alternative”) one mile  
28 downstream of Eklutna Lake; and  
29

30 **WHEREAS**, the policy of the Municipality of Anchorage has been to support  
31 restoration of the Eklutna River since the Anchorage Assembly adopted AR 2017-  
32 324(S), “A Resolution in Support of Efforts to Restore the Eklutna River,” and AR  
33 2022–262, As Amended, “A Resolution of the Anchorage Municipal Assembly in  
34 Support of Efforts to Restore the Eklutna River”; and  
35

36 **WHEREAS**, further, through the passage of AO 2023-131, As Amended, the  
37 Assembly, through the creation of a specific law, reinforced and declared that it is  
38 the official policy of the Municipality of Anchorage, inclusive of the Anchorage  
39 Hydropower Utility Department, to restore the continuous water flow of the Eklutna  
40 River and the fish populations of the River and Eklutna Lake, to the greatest extent  
41 possible, subject to all provisions of the 1991 Agreement; and

1  
2 **WHEREAS**, any changes to the Eklutna Hydroelectric Project will impact not only  
3 hydroelectric power and drinking water, but also fish and wildlife; and  
4

5 **WHEREAS**, Eklutna Lake is the primary source of Municipality's drinking water for  
6 which AWWU currently pays approximately \$1.2 Million annually to the Eklutna  
7 Hydroelectric Project to ensure access to the Municipality's drinking water and any  
8 binding agreement relating to the purchase price of water and volumes available to  
9 AWWU may impact property rights of AWWU and the regulated price of water to its  
10 customers; and  
11

12 **WHEREAS, under the Anchorage Municipal Charter § 10.01, the Assembly is**  
13 **the sole municipal body with authority to approve acquisition, conveyance,**  
14 **lease, or transfer of property and other rights; without Assembly approval, the**  
15 **inclusion of predetermined water rights into the Proposed Final Fish and**  
16 **Wildlife Program violates separation of powers and is litigable; and**  
17

18 **WHEREAS**, the Anchorage Assembly was recently briefed about the changing  
19 regulatory environment for drinking water, and while the effects of the regulatory  
20 changes are currently unknown, concern has been raised about the availability of  
21 drinking water from ground wells under the new regulations; and  
22

23 **WHEREAS**, the Anchorage Assembly hired an expert engineer, Don Spiegel, who  
24 originally designed the Eklutna AWWU system, to evaluate the Portal Valve  
25 alternative as it relates to AWWU's operation of the Eklutna Water Treatment Facility  
26 and the effectiveness of the Portal Valve Alternative in delivering water to the river  
27 to support the restoration of fish species; and  
28

29 **WHEREAS**, the initial conclusions of Mr. Spiegel, which were submitted to the  
30 Assembly through AIM 2024-11 on January 23, 2024, raise significant doubts as to  
31 whether the Portal Valve Alternative will meet the **stated** mitigation objectives; **raise**  
32 **numerous concerns about potential harms to AWWU infrastructure and the**  
33 **Portal Valve limiting AWWU expansion in the future; and identifies that**  
34 **planned and unplanned maintenance shutdowns could result in AWWU and**  
35 **the Municipality being culpable and liable for the death of any aquatic species**  
36 **[STATED ON A YEAR ROUND BASIS: INABILITY TO MEET THOSE**  
37 **OBJECTIVES COULD RESULT IN AWWU AND THE MUNICIPALITY BEING**  
38 **CULPABLE AND LIABLE FOR THE DEATH OF ANY IN-RIVER SPECIES THAT**  
39 **HAVE RETURNED, DEPENDING ON WATER LEVELS PROVIDED BY THE**  
40 **HYDROELECTRIC PROJECT OWNERS, AND COULD BE A LIMITING**  
41 **CONDITION FOR AWWU EXPANSION IN THE FUTURE];** and  
42

43 **WHEREAS**, the Assembly submitted public comment to the Hydroelectric Project  
44 Owners via resolution AR 2024-40, As Amended, dated February 2, 2024; and  
45

46 **WHEREAS**, following the public comment period is an opportunity for the  
47 Hydroelectric Project Owners to review the comments and resolve any  
48 disagreements prior to submitting a final proposal to the Governor; and  
49

1 **WHEREAS**, the Native Village of Eklutna has put forward an alternative for removal  
2 of the dam at Eklutna Lake **once replacement renewable power is secured**, which  
3 is supported by the Municipal policy stated in AO 2023-131, As Amended, and  
4 codified at AMC 26.30.025A., but was never fully **and equitably analyzed**  
5 **[CONSIDERED]** by the Hydroelectric Project Owners **[AND HAS NOT BEEN**  
6 **PRESENTED AS AN ALTERNATIVE IN THE DRAFT FISH AND WILDLIFE**  
7 **PROGRAM];** and

8  
9 **WHEREAS**, in addition to the stated policy and support for dam removal, the  
10 Anchorage Assembly has evaluated the Portal Valve Alternative and has concerns  
11 about that alternative; and

12  
13 **WHEREAS**, the Native Village of Eklutna put forward an **additional alternative**  
14 **solution transporting water for release at the existing dam spillway [INTERIM**  
15 **MEASURE]** that would achieve much **more than [OF WHAT]** the proposed Portal  
16 Valve Alternative would do, **rewatering all 12 miles of the river below the dam**  
17 but not be connected to AWWU's infrastructure and address the concerns about  
18 sufficient flow **into the river [THROUGH THE PORTAL VALVE]** during low water  
19 availability or shut down and maintenance events; and

20  
21 **WHEREAS**, on February 12, 2024, the Hydroelectric Project Owners responded to  
22 the Assembly's submission of public comments rejecting it's two primary stated  
23 requests – to delay and to fully evaluate any impacts through the RCA on AWWU  
24 rates; **and[.]**

25  
26 **WHEREAS**, **on April 25, 2024 the Hydroelectric Project Owners transmitted**  
27 **their Proposed Final Fish and Wildlife Program to the Governor, which kicked**  
28 **off a process that first allows for stakeholder comments and then a response**  
29 **to those comments by the Hydroelectric Project Owners before the Governor**  
30 **takes any action; and**

31  
32 **WHEREAS**, **on June 11 [10], 2024, the Anchorage Assembly held a public**  
33 **hearing to receive public testimony on the Proposed Fish and Wildlife**  
34 **Program, providing the public its first opportunity to directly weigh in through**  
35 **testimony that was recorded since the Proposed Fish and Wildlife Program**  
36 **was made available by the Hydroelectric Project Owners; and**

37  
38 **WHEREAS**, **in light of the public testimony received and** in the interest of  
39 protecting the future of the Municipal water supply as well as the interests of its  
40 residents and municipal taxpayers, the **Municipality of Anchorage [ASSEMBLY]**  
41 submits the following comments on the **Proposed Final** Fish and Wildlife Program  
42 regarding the Portal Valve Alternative as transmitted to the Governor **[ON APRIL**  
43 **25, 2024];**

44  
45 **NOW, THEREFORE, THE ANCHORAGE ASSEMBLY RESOLVES** and submits  
46 **the following as its comments on the Proposed [DRAFT] Fish and Wildlife**  
47 **Program:**

48  
49 **Section 1.** The following **stakeholder comments** are process and technical  
50 concerns particular to the Portal Valve Alternative put forward **to the Governor as**

1 **the Proposed Final Fish and Wildlife Program** by the Hydroelectric Project  
2 Owners for public comment:

3  
4 **A. Non-Compliant Process.** The August 7, 1991 Fish and Wildlife  
5 Agreement (1991 Agreement) sets forth a process for addressing the  
6 Eklutna Hydroelectric Project's impacts on fish and wildlife similar to  
7 that for Federal Energy Regulatory Commission ("FERC") licensed  
8 projects. The process set forth in the 1991 Agreement was intended  
9 to be at least as robust as a normal FERC license process, which is  
10 subject to all the provisions of National Environmental Policy Act  
11 ("NEPA") and all the authorities typically granted to the federal  
12 agencies. The process engaged by the Hydroelectric Project Owners  
13 falls short of the FERC standard of analysis. No NEPA **equivalent**  
14 analysis was done, the federal agencies were denied the authorities  
15 they normally would have, such as to prescribe fish passage, and the  
16 public wasn't presented any alternatives to choose from. Moreover,  
17 the process engaged in does not appear comparable to the NEPA  
18 requirements to consult with Native Tribes impacted by the project (18.  
19 C.F.R. 5.7), nor have a dispute resolution process allowing agencies  
20 to mandate conditions (18 C.F.R. 5.8 and 5.15).

21  
22 **[NONE OF STATE OR FEDERAL SIGNATORIES TO THE 1991**  
23 **AGREEMENT HAVE SO FAR SUPPORTED THE PORTAL VALVE**  
24 **ALTERNATIVE. THE] Previous** comment letters from these state  
25 and federal resource agencies raise questions around the process  
26 engaged by the Hydroelectric Project Owners, the data inputs used in  
27 modeling to develop the **Proposed Final [DRAFT]** Fish and Wildlife  
28 Program, and the viability of the Portal Valve Alternative to achieve  
29 the stated goals of the 1991 Agreement. These questions are  
30 unresolved.

31  
32 Similarly, the process under the 1991 Agreement diverges  
33 substantially from the type of alternatives analysis the Municipality  
34 uses on its own capital projects. Often the Municipality's own large  
35 capital projects, such as the Port of Alaska Modernization Program  
36 ("PAMP") or projects co-funded through the Anchorage Metropolitan  
37 Area Transportation Solutions ("AMATS") design alternatives, are  
38 evaluated by experts and relevant stakeholders and the Assembly is  
39 briefed and able to weigh in on the proposed alternatives, particularly  
40 where Municipal resources are required to fund the projects. Based  
41 on the information the Assembly has been provided to date, only one  
42 alternative was seriously evaluated by the Hydroelectric Project  
43 Owners and put forward for consideration even though a Municipal  
44 contribution is expected through a property tax assessment.

45  
46 **B. Potential Impacts to Anchorage Drinking Water .** Throughout this  
47 process, there has been very little discussion about any implications  
48 on AWWU and the Municipality's access to drinking water now and  
49 into the foreseeable future (the next 35 years). The week of January  
50 22, 2024, well after the **Proposed Final [DRAFT]** Fish and Wildlife

1 Program was released and after years of discussion and presentation  
2 by the Eklutna Hydroelectric Project owners, we learned that the  
3 Hydroelectric Project Owners and AWWU, all public utilities regulated  
4 by the Regulatory Commission of Alaska (RCA), had signed a binding  
5 agreement in early October 2023, prior to submitting the **Proposed**  
6 **Final [DRAFT]** Fish and Wildlife Program for public comment. We  
7 learned this agreement is based on the Portal Valve Alternative and  
8 no other alternative; an alternative that may have significant impacts  
9 to the project outcome as well as to regulated rates authorized by the  
10 RCA. After the signed agreement was made public with transmittal of  
11 the program to the Governor, it was clear that AWWU was prohibited  
12 from raising any concerns publicly about the Portal Valve option  
13 pursuant to the terms of the agreement. This was and continues to be  
14 a significant hinderance on the Anchorage Assembly, and the public,  
15 to provide complete comments on the Portal Valve Alternative as  
16 related to AWWU operations, potential impacts to Municipal growth  
17 and strategic investments for AWWU and the Municipality. Significant  
18 legal questions also remain whether a binding agreement can be  
19 signed relating to future Municipal utility assets, revenues, and  
20 expenditures without Assembly approval.

21  
22 Before learning of that agreement, the Anchorage Assembly hired an  
23 expert to analyze the effectiveness of the Portal Valve option in  
24 relation to AWWU's operation at Eklutna. That analysis by engineer  
25 Don Spiegel, who designed the Eklutna AWWU system, concluded  
26 that the Portal Valve "cannot provide adequate Eklutna River  
27 restoration flows, nor can it provide year-round water without  
28 interruption. Thus, it is the Author's opinion that the Portal Valve as  
29 currently configured is fatally flawed and other Eklutna River  
30 restoration alternatives should be studied further."

31  
32 Furthermore, AWWU continues to brief the Assembly on new  
33 developments concerning drinking water regulation through federal  
34 and local entities. The impacts of the new drinking water regulations  
35 are yet to be determined, but AWWU leadership has expressed  
36 concerns about potential impacts to the Municipality from limitations  
37 of retaining full ground well capacity. Until the new regulatory  
38 landscape is better understood, particularly any reductions in access  
39 to drinking water from sources other than Eklutna, any future  
40 limitations on drinking water capacity at Eklutna should be held in  
41 abeyance.

42  
43 **C. Misrepresentation of data, Incomplete Analysis and Insufficient**  
44 **Mitigation.** The **Proposed Final Fish and Wildlife Program**  
45 **[PORTAL VALVE ALTERNATIVE]** does not meet the requirements  
46 of the 1991 Agreement regarding "the protection, mitigation of  
47 damages to, and enhancement of fish and wildlife affected by  
48 hydroelectric development of the Eklutna Hydroelectric Project." There  
49 are a number of variables related to lake level that can render the  
50 Portal Valve Alternative inoperable. Additionally, regular and

1 unexpected maintenance at the AWWU water facility will also stop the  
2 flow of water into the Portal Valve. Discontinuous water flows will result  
3 in fish kills in Eklutna River. The state and federal signatories to the  
4 1991 Agreement have raised questions about the analysis and  
5 process used to develop the **Proposed Final [DRAFT]** Fish and  
6 Wildlife Program. The Hydroelectric Project Owners failed to  
7 **adequately and equitably** consider all reasonable alternatives,  
8 including the dam removal and siphon alternatives proposed by the  
9 Native Village of Eklutna. The Hydroelectric Project Owners failed to  
10 present the public with a full range of alternatives as would typically  
11 occur in similar situations.  
12

13 **D. Poor Coordination and Questionable Use of Public Funds.** The  
14 Hydroelectric Project Owners and AWWU are regulated utilities and  
15 need to demonstrate benefit to their rate payers. Additionally, the  
16 Assembly, as the steward of taxpayer funds, must demonstrate benefit  
17 to the residents of the Municipality through the expenditure of public  
18 funds. Treating the Portal Valve Alternative as a singular stand-alone  
19 project is short sighted and does not maximize various opportunities  
20 to meet the goals and objectives of 1991 Agreement across various  
21 entities nor does it meet the requirements of these entities to benefit  
22 the public. The Portal Valve Alternative brought forward by the  
23 Hydroelectric Project Owners is self-serving and fails to protect the  
24 broader public interests of the Municipality of Anchorage. Given the  
25 \$57 million price tag of the Portal Valve Alternative, its potential  
26 impacts to AWWU operations, and the financial implications to  
27 ratepayers and taxpayers for the next 35 years, we find this is a poor  
28 use of public funds and lacked public coordination.  
29

30 **E. Concerns from the Public. The public testimony received in**  
31 **person and via email to the Anchorage Assembly concerning the**  
32 **Proposed Final Fish and Wildlife Program overwhelmingly raised**  
33 **concerns with the proposal. Those concerns are summarized**  
34 **below.<sup>1</sup> The public, including utility ratepayers and taxpayers, are**  
35 **stakeholders in this process and to date have not had a**  
36 **meaningful opportunity to weigh in.**  
37

38 1. **Commitment to full river restoration. Several members of the**  
39 **public provided testimony supporting full river restoration.**  
40

41 **“Please help and restore the Eklutna River to its original habitat.”**  
42

43 **“The portal valve option for the Eklutna Dam is not acceptable.**  
44 **An acceptable option must RESTORE, not replace, what was**  
45 **viable in the past for the fish in the river. Theories of alternative**

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**<sup>1</sup> The full public record accessible through the Assembly’s Public Portal via Assembly Information Memorandum (AIM) submitted for testimony received for the June 11, 2025 meeting and the Assembly’s agenda page where video recordings of past meetings may be viewed.**

1 water flow rates are not acceptable. Any section of dry river is  
2 not acceptable. Not allowing fish to pass into the lake is not  
3 acceptable.”  
4

5 “It fails because it leaves a mile of river completely dry and does  
6 not provide adequate flows to restore fish and natural processes  
7 below the dam. It also does not provide for any fish passage  
8 above the dam[n] into Eklutna Lake and the upper tributaries.”  
9 “I’m writing in support of the Native Village of Eklutna’s vision for  
10 restoring the full length of the Eklutna River. 80% of Alaskans  
11 who commented want the Eklutna River restored.”  
12

13 “The Proposed Final Program does not meet the intent of the  
14 1991 purchase agreement. It leaves a mile of the river dry, with  
15 inadequate flows down the remaining river. It also does not  
16 provide fish passage to Eklutna Lake and its upstream  
17 tributaries. It falls far short of mitigating the harm done by the  
18 dam to fish and wildlife. Significantly, the Final Program goes  
19 against what 80% of Alaskans who commented want for their  
20 river. During the comment period this winter, 4 out of 5 Alaskans  
21 asked the utilities to provide fish passage between the river and  
22 the lake, which also requires flows throughout the entire river.  
23 53.7% of Alaskans who commented specifically want the dam  
24 removed.”  
25

26 “Championing Eklutna River restoration calls for visionary  
27 leadership. Native Movement acknowledges the Assembly’s  
28 commitment to restoring the Eklutna River. Eklutna River  
29 restoration is a visionary step that simply is the right thing to do.  
30 The Draft Fish and Wildlife Program submitted to the Governor  
31 continues business as usual and ignores the pleas of the Native  
32 Village of Eklutna and a majority of the public. The Anchorage  
33 Assembly’s vision for preserving the natural ecosystem of the  
34 Eklutna watershed and Indigenous heritage is a pivotal step  
35 toward righting the wrongs of the past. Endorsing responsible  
36 stewardship of the Eklutna watershed necessitates rejecting the  
37 Draft Fish and Wildlife Program. ... The proposal does not meet  
38 the requirements of the 1991 Agreement and fails to ensure  
39 sufficient water flow for river restoration. Acknowledging the  
40 inadequacies of the Draft Fish and Wildlife Program is  
41 paramount. Under the utilities’ Draft Fish and Wildlife Program,  
42 there will be no connection to Eklutna Lake or upper tributaries  
43 leaving the most significant portion of the river dry. Without  
44 provisions for fish passage, the program will fail to restore the  
45 ecosystem as intended by the 1991 Agreement. The resolution’s  
46 critique underscores the necessity of a more comprehensive and  
47 ecologically sound solution.”  
48

49 “The current plan submitted to the Governor does not go far  
50 enough to return salmon to the Eklutna River and has ignored the

1 Native Village of Eklutna, who has asked for an alternative path  
2 forward that connects the river to the lake and returns historic  
3 water flows to the river so fish can spawn. I ask the assembly  
4 to submit comments in support of the Native Village of Eklutna  
5 and the return of the river to its natural state.”  
6

7 2. Compliance with the 1991 Agreement. Public comment  
8 received specifically called out concerns that the Portal Valve  
9 option in the Proposed Final Fish and Wildlife Program does  
10 not meet the intent of the 1991 Agreement.  
11

12 “We appreciate the Assembly’s support of the removal of the  
13 Eklutna Lake Dam because it is the only alternative to meet the  
14 purpose of the Purchase Agreement. The Purchase Agreement  
15 requires that the utilities work with key federal agencies to  
16 develop a Fish and Wildlife Plan with the purpose of developing  
17 and implementing measures to “protect, mitigate damages to,  
18 and enhance fish and wildlife (including related spawning  
19 grounds and habitat).” The inadequacy of the AWWU Portal  
20 Valve Alternative to achieve the intent of the Purchase  
21 Agreement should make it a nonresponsive option for the Fish  
22 and Wildlife Plan.”  
23

24 “The [1991] Agreement was meant to provide a deregulatory  
25 alternative that was better suited to Alaska than a ‘one size fits  
26 all’ FERC process. It’s fair to say the power companies took  
27 advantage of this loose framework and applied a literal legal  
28 interpretation that benefited only them. The power companies  
29 claim they were inclusive, but their inclusivity (*sic*) was highly  
30 performative. Other than the initial flushing flow, I am not aware  
31 of any case where they altered their practice or plans based on  
32 input from anybody else, including NVE, the public, the feds. The  
33 power companies claim they only have to mitigate, for their  
34 impacts, not restore the Eklutna River. ‘Restoration’ is the  
35 highest and preferred form of mitigation, according to the EPA  
36 and US Army Corps of Engineers. ... I think it likely that the 40  
37 cfs of instream flow will be insufficient to attract salmon, at which  
38 point they will say ‘We told you so.’ 40 cfs is a trickle compared  
39 to normal historic flows of 1,000 cfs. We were promised  
40 increased operating efficiencies when CEA acquired ML&P.  
41 Those promised efficiencies should have been sufficient to offset  
42 any loss of power production from Eklutna. To understand why  
43 the power companies have gone to the mat over Eklutna, follow  
44 the money.”  
45

46 “Their contractor was paid to support only one proposal that  
47 didn’t affect their operations, one iota. The Proposed Final  
48 Program does not meet the intent or requirements of the 1991  
49 Agreement. It leaves a mile of the river completely dry and does  
50 not provide adequate flows to restore fish and natural processes



1 below the dam. It also provides no fish passage above the dam  
2 into Eklutna Lake and the resource-rich upper tributaries. I was  
3 aghast at some of the tactics the contractor used to manipulate  
4 input. At one point, they told the group that the AWWU portal  
5 option was off the table, only to find out they were secretly  
6 meeting on an agreement with the water utility to solidify the  
7 portal option.”

8  
9 3. Concerns about the fish and wildlife analysis. Several public  
10 comments raised concerns about the disconnection between  
11 the Hydroelectric Owners analysis and other state and federal  
12 agencies written feedback.

13  
14 “The owners propose flows that all resource agencies (AK Dept  
15 of Fish and Game, U.S. Fish and Wildlife Service, and National  
16 Marine Fisheries Service) found inadequate to support salmon.”  
17 “As a fisheries biologist for the USFWS for 8 years, I studied  
18 sockeye salmon in waterways on Joint Base Elmendorf  
19 Richardson, nearby Eklutna River. Sockeye strays naturally  
20 colonized a man-made lake, Sixmile Lake; genetics show these  
21 colonizers are related to sockeye from the Big Lake area. The  
22 Owners and occasionally ADFG have questioned if sockeye  
23 would come back if the Eklutna River was reconnected to Eklutna  
24 Lake, using this perceived uncertainty as a reason for selecting  
25 the AWWU portal alternative. There is strong evidence from a  
26 proximate system that sockeye will naturally repopulate, the  
27 timing of return and carrying capacity of the lake can be debated  
28 but the notion that they will not come back is not scientifically  
29 supported.”

30  
31 According to one of the coauthors of the research, the Owners  
32 misrepresented and downplayed their findings by equating the  
33 potential sockeye salmon run that may have spawned in the lake (up  
34 to 15,000) with all the salmon historically present in the entire system,  
35 including those harvested annually at the mouth of the river and in  
36 Knik Arm by the Dena'ina, and by failing to mention documented  
37 concerns from the 1992 divestiture summary report on the sale of the  
38 Eklutna hydroelectric project that the "complete loss" of Eklutna Lake's  
39 sockeye salmon run "undoubtedly occurred with construction of the  
40 1929 dam.”

41  
42 4. Cost. “The [Hydroelectric Utility Owners] propose to tap into  
43 Anchorage's drinking water supply pipeline and spend \$57  
44 million in taxpayer and ratepayer money to put a trickle of  
45 water into the river that won't meaningfully restore anything.  
46 The Assembly has said that it will not provide funding or  
47 authorizations for this program and should make that clear to  
48 the owners and the Governor.”

49  
50 5. Respecting Recognized Government to Government

1 Relationships. Several comments received stated concerns  
2 about the lack of official role the Native Village of Eklutna had  
3 in the process and acknowledging the cultural significance of  
4 the Eklutna River.

5  
6 “I remember hearing stories from Grandpa Leo about how big the  
7 kings were. You’d have to carry them on your back. Another one  
8 kind of made me laugh, was that the bears would be picky with  
9 their food, as you could walk on the backs of the salmon in the  
10 Eklutna River. There’s a reason our people, the Dena’ina  
11 Athabascans, settled in Eklutna and the surrounding areas. The  
12 land sustains life and with the blessings of the Lord, our families  
13 are fed. ... The Eklutna dam was not something the tribe of  
14 Eklutna wanted. We are the landowners. How is that right? The  
15 outcome of the dam, resulted in the river turning into a creek, the  
16 flourishing salmon turning into none, our people without our  
17 food source and NOW, our people are in the fight of our lives to  
18 get back what was stolen from us. ... As a Dena’ina Athabaskan  
19 woman, who HURTS from what was stolen from us as a tribe, I  
20 SINCERELY, thank you for helping to fight for myself, for my 5  
21 children, for my tribe of Native Village of Eklutna and the  
22 communities of Alaska to make this wrong a right. Chin’an”

23  
24 “This is truly a generational opportunity to restore once-  
25 abundant salmon runs, which will benefit the Anchorage  
26 community and bring a modicum of justice to the Native Village  
27 of Eklutna, which settled near the Eklutna River and was never  
28 consulted or asked about the idea of dewatering the river and  
29 decimating its salmon runs.”

30  
31 “As we live on colonized lands, restoring the full length of the  
32 Eklutna River is one of many steps towards healing from the  
33 legacy of settler colonialism and building a world in which all of  
34 us have everything we need.”

35  
36 ”This [the Proposed Final Fish and Wildlife Program] does not  
37 address the ecological and cultural needs of the region and  
38 community; we must put forth an option that fully restores the  
39 river so that fish can once again thrive in the area.]]I believe that  
40 fully restoring the Eklutna River is best for our community. It will  
41 provide renewed cultural connection for the Native Village of  
42 Eklutna and Indigenous Alaskans who want to see their river full  
43 of fish again. It will allow for more recreational opportunities for  
44 our growing communities who are still seeking outdoor  
45 opportunities and more places to fish- something that makes  
46 Alaska, and Southcentral in particular, so unique. I applaud the  
47 Assembly’s resolution to support the Native Village of Eklutna’s  
48 proposal, returning autonomy and ownership to people whose  
49 land was stolen from them. They are the original stewards of this  
50 resource and we owe it to them to let their vision lead what

1 restoration looks like at Eklutna.”

2  
3 “Most importantly, restoration of the Eklutna River would be a  
4 long overdue opportunity to address the injustice against the  
5 Native Village of Eklutna, upon whose land the dam was  
6 constructed without their consent or involvement. ||Thank you,  
7 assembly members, for your support of Eklutna River  
8 restoration.”

9  
10 “Advocating for Indigenous alternatives upholds Indigenous  
11 rights and recognizes their environmental stewardship. The  
12 Native Village of Eklutna and other commenters have proposed  
13 meaningful and carefully-considered alternatives that represent  
14 a compromise between the utilities’ concerns and stronger  
15 alternatives proposed in previous engagements. Their  
16 alternatives, such as the Eklutna River Release Facility and dam  
17 removal, offer more effective means of restoring the river while  
18 respecting Indigenous sovereignty and environmental  
19 sustainability. But even those thoughtful alternatives have been  
20 overlooked repeatedly. It is not hard to imagine based upon the  
21 history of the Eklutna people that for many generations, their  
22 ancestors embraced the river’s abundance while a major city  
23 would engulf them and their lands taken from them. It is clear the  
24 Eklutna River once thrived with the presence of salmon, despite  
25 the hydro project owners’ denial of this profound legacy. The  
26 utilities may be attempting to obscure the truth, but they cannot  
27 extinguish the collective memory that has been noted in studies  
28 and in public comments.”

29  
30 “They would hold meetings with the Native Village of Eklutna to  
31 tell people they had met with the tribe, but they never listened to  
32 a word they said. It was horribly disrespectful and  
33 disingenuous.”

34  
35 6. The NVE Alternative. The Native Village of Eklutna’s  
36 alternative received public comment as well.

37  
38 “The current mitigation plan for the Eklutna Hydroelectric Project  
39 that was submitted to the Governor is insufficient. It does not  
40 truly address and mitigate the harm the hydroelectric dam  
41 causes to fish and wildlife. It would not allow for sufficient, year-  
42 round water flow to restore fish passage above the dam, leaving  
43 a mile of the riverbed dry. ||The Municipality has an amazing  
44 opportunity to restore all 5 species of salmon through the  
45 Eklutna River and up to Eklutna Lake by removing the  
46 hydroelectric dam AFTER other renewable energy projects are  
47 constructed. This would create access to salmon that would  
48 benefit the plants and animals along the river, as well as families  
49 like my own in the Anchorage area who could have easier to  
50 access to sustainable, nearby salmon runs.”

1  
2 “[T]he Native Village of Eklutna and its partners have provided  
3 alternatives that meet the intent and requirements of the 1991  
4 Agreement, which was to right the historical wrong of destroying  
5 the Eklutna watershed and restore the Eklutna River from its  
6 headwaters to Cook Inlet. These alternatives include an  
7 alternative Eklutna River Release Facility using a siphon pump  
8 that would take water directly from the lake and put it right into  
9 the river, avoiding any use of AWWU infrastructure, and dam  
10 removal once replacement renewable energy is secured, which  
11 we believe is feasible within the next decade.”

12  
13 “I appreciate the Assembly's commitment to a full river  
14 restoration. However the proposed plan leaves a mile of river  
15 completely dry and doesn't provide adequate flow to restore fish  
16 and natural processes. There is also no fish passage to above  
17 the dam. There are alternatives that do these things until the dam  
18 can be removed, that seem feasible. I would like to support the  
19 Native Village of Eklutna's alternatives that protect Anchorage's  
20 drinking water and restore the Eklutna river.”

21  
22 **For all the above reasons, the Municipality of Anchorage [ASSEMBLY]**  
23 **cannot endorse and thus opposes the Proposed Final [DRAFT] Fish and**  
24 **Wildlife Program.**

25  
26 **Section 2.** The Municipality of Anchorage does not intend to issue  
27 authorizations or provide funds or any other form of support of the **Proposed Final**  
28 **Fish and Wildlife Program** or any alternative that doesn't work toward the restoration  
29 of the full length of the Eklutna River and comply with policy of the Municipality, as  
30 recently enacted by AO 2023-131, As Amended, and codified at AMC 26.30.025A.,  
31 as well as AR 2022-262, As Amended, and AR 2017-324(S).

32  
33 **Section 3.** The Regulatory Commission of Alaska (RCA), under its statutory  
34 powers to initiate investigation into practices and facilities of a public utility, should  
35 review the **Proposed Final** Fish and Wildlife Program and examine any impacts on  
36 any of the regulated utilities, including but not limited Chugach Electric, Matanuska  
37 Electric, Anchorage Hydropower and AWWU, particularly about impacts to rate  
38 payers and their access to uninterrupted service, **before** any option for a Final Fish  
39 and Wildlife Program is approved by the Governor.

40  
41 **Section 4.** The Anchorage Assembly requests the Hydroelectric Project Owners  
42 to seek a two-year extension of the 1991 Agreement from the signatories, of which  
43 the Municipality is one through the Anchorage Hydropower Utility, to perform  
44 additional analysis, consultation, and coordination with affected parties, including  
45 the Anchorage Assembly and the Native Village of Eklutna, **and utilize a public**  
46 **process to ensure adequate opportunity for ratepayers, taxpayers and**  
47 **residents to weigh in.** The issues at play are too significant to our community to  
48 rush to judgment or exclude key stakeholders. The residents of the Municipality  
49 deserve a measured and comprehensive approach guided by respectful

1 coordination to reach a solution that enjoys broad consensus among the affected  
2 parties.

3  
4 **Section 5: The Municipality of Anchorage’s intent and purpose is to**  
5 **authorize litigation to protect the Municipality’s interests and established**  
6 **policy to the fullest extent allowed under law to ensure the concerns raised in**  
7 **this Resolution are addressed.**

8  
9 **Section 6[5].** This resolution shall be effective immediately upon passage and  
10 approval by the Assembly.

11  
12 PASSED AND APPROVED by the Anchorage Assembly this 25th day of June,  
13 2024.

14  
15 *Christopher Constant*

16 \_\_\_\_\_  
17 Chair

18 ATTEST:

19  
20  
21 *Jasmine Acres*

22 \_\_\_\_\_  
23 Municipal Clerk



**MUNICIPALITY OF ANCHORAGE**  
**Assembly Information Memorandum**

No. AIM 100-2024

Meeting Date: June 25, 2024

1 **From: ASSEMBLY CHAIR CONSTANT AND VICE CHAIR ZALETEL**  
2

3 **Subject: AR 2024-182(S-1): A RESOLUTION OF THE MUNICIPALITY OF**  
4 **ANCHORAGE SUBMITTING PUBLIC COMMENT ON THE**  
5 **PROPOSED FINAL FISH AND WILDLIFE PROGRAM FOR THE**  
6 **EKLUTNA HYDROELECTRIC PROJECT AS TRANSMITTED TO**  
7 **THE GOVERNOR.**  
8  
9

10 For the Assembly's consideration, please see the attached "Clean Copy" version  
11 of AR 2024-182(S-1) with legislative drafting markup implemented and removed,  
12 for ease of reading, and to be prepared to transmit before the deadline for  
13 comments from the parties to the 1991 Agreement.  
14  
15

16  
17 Prepared by: Assembly Counsel's Office  
18

19 Respectfully submitted: Christopher Constant, Assembly Chair  
20 District 1, North Anchorage  
21

22 Meg Zaletel, Assembly Vice Chair  
23 District 4, Midtown  
24  
25  
26

Municipal Clerk's Office

**Approved**

Date: **June 25, 2024**

Submitted by: Assembly Vice Chair Zaletel

Assembly Chair Constant

Prepared by: Legislative Services

Reviewed by: Assembly Counsel's Office

(S) For reading: June 25, 2024

## **ANCHORAGE, ALASKA**

### **AR No. 2024-182(S-1)**

1 **A RESOLUTION OF THE MUNICIPALITY OF ANCHORAGE SUBMITTING**  
2 **PUBLIC COMMENT ON THE PROPOSED FINAL FISH AND WILDLIFE**  
3 **PROGRAM FOR THE EKLUTNA HYDROELECTRIC PROJECT AS**  
4 **TRANSMITTED TO THE GOVERNOR.**

---

5  
6 **WHEREAS**, the Municipality of Anchorage, Chugach Electric Association (CEA),  
7 and Matanuska Electric Association (MEA) (collectively "the Hydroelectric Project  
8 Owners") jointly own the Eklutna Hydroelectric Project and are parties to the 1991  
9 Fish and Wildlife Agreement (the "1991 Agreement") with the State of Alaska, the  
10 U.S. Fish and Wildlife Service and the National Marine Fisheries Service, an  
11 agreement that notably excludes a key stakeholder, the Native Village of Eklutna,  
12 the federally recognized tribe whose ancestral homelands encompass this project;  
13 to fund studies to examine and quantify the impacts of the Eklutna Power Project on  
14 fish and wildlife; examine and develop proposals for the protection, mitigation, and  
15 enhancement of fish and wildlife affected by such hydroelectric development; and  
16 prepare a Proposed Final Fish and Wildlife Program for approval by the Governor;  
17 and

18  
19 **WHEREAS**, once approved by the Governor, the Fish and Wildlife Program  
20 proposes to contractually bind operations of the Eklutna Hydroelectric Project and  
21 Anchorage Water and Wastewater Utility ("AWWU") for the next 35 years; and

22  
23 **WHEREAS**, in their Proposed Final Fish and Wildlife Program to mitigate their  
24 impacts to fish and wildlife pursuant to the 1991 Agreement, the Hydroelectric  
25 Project Owners propose to utilize AWWU infrastructure to deliver water into the  
26 Eklutna River via a Portal Valve (the "Portal Valve Alternative") one mile  
27 downstream of Eklutna Lake; and

28  
29 **WHEREAS**, the policy of the Municipality of Anchorage has been to support  
30 restoration of the Eklutna River since the Anchorage Assembly adopted AR 2017-  
31 324(S), "A Resolution in Support of Efforts to Restore the Eklutna River," and AR  
32 2022-262, As Amended, "A Resolution of the Anchorage Municipal Assembly in  
33 Support of Efforts to Restore the Eklutna River"; and

34  
35 **WHEREAS**, further, through the passage of AO 2023-131, As Amended, the  
36 Assembly, through the creation of a specific law, reinforced and declared that it is  
37 the official policy of the Municipality of Anchorage, inclusive of the Anchorage  
38 Hydropower Utility Department, to restore the continuous water flow of the Eklutna  
39 River and the fish populations of the River and Eklutna Lake, to the greatest extent  
40 possible, subject to all provisions of the 1991 Agreement; and

41

1 **WHEREAS**, any changes to the Eklutna Hydroelectric Project will impact not only  
2 hydroelectric power and drinking water, but also fish and wildlife; and  
3

4 **WHEREAS**, Eklutna Lake is the primary source of Municipality's drinking water for  
5 which AWWU currently pays approximately \$1.2 Million annually to the Eklutna  
6 Hydroelectric Project to ensure access to the Municipality's drinking water and any  
7 binding agreement relating to the purchase price of water and volumes available to  
8 AWWU may impact property rights of AWWU and the regulated price of water to its  
9 customers; and  
10

11 **WHEREAS**, under the Anchorage Municipal Charter § 10.01, the Assembly is the  
12 sole municipal body with authority to approve acquisition, conveyance, lease, or  
13 transfer of property and other rights; without Assembly approval, the inclusion of  
14 predetermined water rights into the Proposed Final Fish and Wildlife Program  
15 violates separation of powers and is litigable; and  
16

17 **WHEREAS**, the Anchorage Assembly was recently briefed about the changing  
18 regulatory environment for drinking water, and while the effects of the regulatory  
19 changes are currently unknown, concern has been raised about the availability of  
20 drinking water from ground wells under the new regulations; and  
21

22 **WHEREAS**, the Anchorage Assembly hired an expert engineer, Don Spiegel, who  
23 originally designed the Eklutna AWWU system, to evaluate the Portal Valve  
24 alternative as it relates to AWWU's operation of the Eklutna Water Treatment Facility  
25 and the effectiveness of the Portal Valve Alternative in delivering water to the river  
26 to support the restoration of fish species; and  
27

28 **WHEREAS**, the initial conclusions of Mr. Spiegel, which were submitted to the  
29 Assembly through AIM 2024-11 on January 23, 2024, raise significant doubts as to  
30 whether the Portal Valve Alternative will meet the stated mitigation objectives; raise  
31 numerous concerns about potential harms to AWWU infrastructure and the Portal  
32 Valve limiting AWWU expansion in the future; and identifies that planned and  
33 unplanned maintenance shutdowns could result in AWWU and the Municipality  
34 being culpable and liable for the death of any aquatic species; and  
35

36 **WHEREAS**, the Assembly submitted public comment to the Hydroelectric Project  
37 Owners via resolution AR 2024-40, As Amended, dated February 2, 2024; and  
38

39 **WHEREAS**, following the public comment period is an opportunity for the  
40 Hydroelectric Project Owners to review the comments and resolve any  
41 disagreements prior to submitting a final proposal to the Governor; and  
42

43 **WHEREAS**, the Native Village of Eklutna has put forward an alternative for removal  
44 of the dam at Eklutna Lake once replacement renewable power is secured, which is  
45 supported by the Municipal policy stated in AO 2023-131, As Amended, and codified  
46 at AMC 26.30.025A., but was never fully and equitably analyzed by the  
47 Hydroelectric Project Owners; and  
48



1 **WHEREAS**, in addition to the stated policy and support for dam removal, the  
2 Anchorage Assembly has evaluated the Portal Valve Alternative and has concerns  
3 about that alternative; and  
4

5 **WHEREAS**, the Native Village of Eklutna put forward an additional alternative  
6 solution transporting water for release at the existing dam spillway that would  
7 achieve much more than the proposed Portal Valve Alternative would do, rewatering  
8 all 12 miles of the river below the damn but not be connected to AWWU's  
9 infrastructure and address the concerns about sufficient flow into the river during  
10 low water availability or shut down and maintenance events; and  
11

12 **WHEREAS**, on February 12, 2024, the Hydroelectric Project Owners responded to  
13 the Assembly's submission of public comments rejecting it's two primary stated  
14 requests – to delay and to fully evaluate any impacts through the RCA on AWWU  
15 rates; and  
16

17 **WHEREAS**, on April 25, 2024 the Hydroelectric Project Owners transmitted their  
18 Proposed Final Fish and Wildlife Program to the Governor, which kicked off a  
19 process that first allows for stakeholder comments and then a response to those  
20 comments by the Hydroelectric Project Owners before the Governor takes any  
21 action; and  
22

23 **WHEREAS**, on June 11, 2024, the Anchorage Assembly held a public hearing to  
24 receive public testimony on the Proposed Final Fish and Wildlife Program, providing  
25 the public its first opportunity to directly weigh in through testimony that was  
26 recorded since the Proposed Final Fish and Wildlife Program was made available  
27 by the Hydroelectric Project Owners; and  
28

29 **WHEREAS**, in light of the public testimony received and in the interest of protecting  
30 the future of the Municipal water supply as well as the interests of its residents and  
31 municipal taxpayers, the Municipality of Anchorage submits the following comments  
32 on the Proposed Final Fish and Wildlife Program regarding the Portal Valve  
33 Alternative as transmitted to the Governor;  
34

35 **NOW, THEREFORE, THE ANCHORAGE ASSEMBLY RESOLVES and submits**  
36 **the following as its comments on the Proposed Final Fish and Wildlife**  
37 **Program:**  
38

39 **Section 1.** The following stakeholder comments are process and technical  
40 concerns particular to the Portal Valve Alternative put forward to the Governor as  
41 the Proposed Final Fish and Wildlife Program by the Hydroelectric Project Owners  
42 for public comment:  
43

- 44 A. **Non-Compliant Process.** The August 7, 1991 Fish and Wildlife  
45 Agreement (1991 Agreement) sets forth a process for addressing the  
46 Eklutna Hydroelectric Project's impacts on fish and wildlife similar to  
47 that for Federal Energy Regulatory Commission ("FERC") licensed  
48 projects. The process set forth in the 1991 Agreement was intended  
49 to be at least as robust as a normal FERC license process, which is  
50 subject to all the provisions of National Environmental Policy Act

1 (“NEPA”) and all the authorities typically granted to the federal  
2 agencies. The process engaged by the Hydroelectric Project Owners  
3 falls short of the FERC standard of analysis. No NEPA **equivalent**  
4 analysis was done, the federal agencies were denied the authorities  
5 they normally would have, such as to prescribe fish passage, and the  
6 public wasn’t presented any alternatives to choose from. Moreover,  
7 the process engaged in does not appear comparable to the NEPA  
8 requirements to consult with Native Tribes impacted by the project (18.  
9 C.F.R. 5.7), nor have a dispute resolution process allowing agencies  
10 to mandate conditions (18 C.F.R. 5.8 and 5.15).

11  
12 **Previous** comment letters from these state and federal resource  
13 agencies raise questions around the process engaged by the  
14 Hydroelectric Project Owners, the data inputs used in modeling to  
15 develop the Proposed Final Fish and Wildlife Program, and the  
16 viability of the Portal Valve Alternative to achieve the stated goals of  
17 the 1991 Agreement. These questions are unresolved.

18  
19 Similarly, the process under the 1991 Agreement diverges  
20 substantially from the type of alternatives analysis the Municipality  
21 uses on its own capital projects. Often the Municipality’s own large  
22 capital projects, such as the Port of Alaska Modernization Program  
23 (“PAMP”) or projects co-funded through the Anchorage Metropolitan  
24 Area Transportation Solutions (“AMATS”) design alternatives, are  
25 evaluated by experts and relevant stakeholders and the Assembly is  
26 briefed and able to weigh in on the proposed alternatives, particularly  
27 where Municipal resources are required to fund the projects. Based  
28 on the information the Assembly has been provided to date, only one  
29 alternative was seriously evaluated by the Hydroelectric Project  
30 Owners and put forward for consideration even though a Municipal  
31 contribution is expected through a property tax assessment.

- 32  
33 B. **Potential Impacts to Anchorage Drinking Water.** Throughout this  
34 process, there has been very little discussion about any implications  
35 on AWWU and the Municipality’s access to drinking water now and  
36 into the foreseeable future (the next 35 years). The week of January  
37 22, 2024, well after the Proposed Final Fish and Wildlife Program was  
38 released and after years of discussion and presentation by the Eklutna  
39 Hydroelectric Project owners, we learned that the Hydroelectric  
40 Project Owners and AWWU, all public utilities regulated by the  
41 Regulatory Commission of Alaska (RCA), had signed a binding  
42 agreement in early October 2023, prior to submitting the Proposed  
43 Final Fish and Wildlife Program for public comment. We learned this  
44 agreement is based on the Portal Valve Alternative and no other  
45 alternative; an alternative that may have significant impacts to the  
46 project outcome as well as to regulated rates authorized by the RCA.  
47 After the signed agreement was made public with transmittal of the  
48 program to the Governor, it was clear that AWWU was prohibited from  
49 raising any concerns publicly about the Portal Valve option pursuant  
50 to the terms of the agreement. This was and continues to be a

1 significant hinderance on the Anchorage Assembly, and the public, to  
2 provide complete comments on the Portal Valve Alternative as related  
3 to AWWU operations, potential impacts to Municipal growth and  
4 strategic investments for AWWU and the Municipality. Significant legal  
5 questions also remain whether a binding agreement can be signed  
6 relating to future Municipal utility assets, revenues, and expenditures  
7 without Assembly approval.  
8

9 Before learning of that agreement, the Anchorage Assembly hired an  
10 expert to analyze the effectiveness of the Portal Valve option in  
11 relation to AWWU's operation at Eklutna. That analysis by engineer  
12 Don Spiegel, who designed the Eklutna AWWU system, concluded  
13 that the Portal Valve "cannot provide adequate Eklutna River  
14 restoration flows, nor can it provide year-round water without  
15 interruption. Thus, it is the Author's opinion that the Portal Valve as  
16 currently configured is fatally flawed and other Eklutna River  
17 restoration alternatives should be studied further."  
18

19 Furthermore, AWWU continues to brief the Assembly on new  
20 developments concerning drinking water regulation through federal  
21 and local entities. The impacts of the new drinking water regulations  
22 are yet to be determined, but AWWU leadership has expressed  
23 concerns about potential impacts to the Municipality from limitations  
24 of retaining full ground well capacity. Until the new regulatory  
25 landscape is better understood, particularly any reductions in access  
26 to drinking water from sources other than Eklutna, any future  
27 limitations on drinking water capacity at Eklutna should be held in  
28 abeyance.  
29

30 C. **Misrepresentation of data, Incomplete Analysis and Insufficient**  
31 **Mitigation.** The Proposed Final Fish and Wildlife Program does not  
32 meet the requirements of the 1991 Agreement regarding "the  
33 protection, mitigation of damages to, and enhancement of fish and  
34 wildlife affected by hydroelectric development of the Eklutna  
35 Hydroelectric Project." There are a number of variables related to lake  
36 level that can render the Portal Valve Alternative inoperable.  
37 Additionally, regular and unexpected maintenance at the AWWU  
38 water facility will also stop the flow of water into the Portal Valve.  
39 Discontinuous water flows will result in fish kills in Eklutna River. The  
40 state and federal signatories to the 1991 Agreement have raised  
41 questions about the analysis and process used to develop the  
42 Proposed Final Fish and Wildlife Program. The Hydroelectric Project  
43 Owners failed to adequately and equitably consider all reasonable  
44 alternatives, including the dam removal and siphon alternatives  
45 proposed by the Native Village of Eklutna. The Hydroelectric Project  
46 Owners failed to present the public with a full range of alternatives as  
47 would typically occur in similar situations.  
48

49 D. **Poor Coordination and Questionable Use of Public Funds.** The  
50 Hydroelectric Project Owners and AWWU are regulated utilities and

1 need to demonstrate benefit to their rate payers. Additionally, the  
2 Assembly, as the steward of taxpayer funds, must demonstrate benefit  
3 to the residents of the Municipality through the expenditure of public  
4 funds. Treating the Portal Valve Alternative as a singular stand-alone  
5 project is short sighted and does not maximize various opportunities  
6 to meet the goals and objectives of 1991 Agreement across various  
7 entities nor does it meet the requirements of these entities to benefit  
8 the public. The Portal Valve Alternative brought forward by the  
9 Hydroelectric Project Owners is self-serving and fails to protect the  
10 broader public interests of the Municipality of Anchorage. Given the  
11 \$57 million price tag of the Portal Valve Alternative, its potential  
12 impacts to AWWU operations, and the financial implications to  
13 ratepayers and taxpayers for the next 35 years, we find this is a poor  
14 use of public funds and lacked public coordination.

15  
16 E. Concerns from the Public. The public testimony received in person  
17 and via email to the Anchorage Assembly concerning the Proposed  
18 Final Fish and Wildlife Program overwhelmingly raised concerns with  
19 the proposal. Those concerns are summarized below.<sup>1</sup> The public,  
20 including utility ratepayers and taxpayers, are stakeholders in this  
21 process and to date have not had a meaningful opportunity to weigh  
22 in.

23  
24 **1. Commitment to full river restoration.** Several members of the  
25 public provided testimony supporting full river restoration.

26  
27 “Please help and restore the Eklutna River to its original habitat.”

28  
29 “The portal valve option for the Eklutna Dam is not acceptable. An  
30 acceptable option must RESTORE, not replace, what was viable in  
31 the past for the fish in the river. Theories of alternative water flow rates  
32 are not acceptable. Any section of dry river is not acceptable. Not  
33 allowing fish to pass into the lake is not acceptable.”

34  
35 “It fails because it leaves a mile of river completely dry and does not  
36 provide adequate flows to restore fish and natural processes below  
37 the dam. It also does not provide for any fish passage above the  
38 dam[n] into Eklutna Lake and the upper tributaries.” “I’m writing in  
39 support of the Native Village of Eklutna’s vision for restoring the full  
40 length of the Eklutna River. 80% of Alaskans who commented want  
41 the Eklutna River restored.”

42  
43 “The Proposed Final Program does not meet the intent of the 1991  
44 purchase agreement. It leaves a mile of the river dry, with inadequate  
45 flows down the remaining river. It also does not provide fish passage  
46 to Eklutna Lake and its upstream tributaries. It falls far short of

---

<sup>1</sup> The full public record accessible through the Assembly’s Public Portal via Assembly Information Memorandum (AIM) submitted for testimony received for the June 11, 2025 meeting and the Assembly’s agenda page where video recordings of past meetings may be viewed.

1 mitigating the harm done by the dam to fish and wildlife. Significantly,  
2 the Final Program goes against what 80% of Alaskans who  
3 commented want for their river. During the comment period this winter,  
4 4 out of 5 Alaskans asked the utilities to provide fish passage between  
5 the river and the lake, which also requires flows throughout the entire  
6 river. 53.7% of Alaskans who commented specifically want the dam  
7 removed.”

8  
9 “Championing Eklutna River restoration calls for visionary leadership.  
10 Native Movement acknowledges the Assembly's commitment to  
11 restoring the Eklutna River. Eklutna River restoration is a visionary  
12 step that simply is the right thing to do. The Draft Fish and Wildlife  
13 Program submitted to the Governor continues business as usual and  
14 ignores the pleas of the Native Village of Eklutna and a majority of the  
15 public. The Anchorage Assembly's vision for preserving the natural  
16 ecosystem of the Eklutna watershed and Indigenous heritage is a  
17 pivotal step toward righting the wrongs of the past. Endorsing  
18 responsible stewardship of the Eklutna watershed necessitates  
19 rejecting the Draft Fish and Wildlife Program. ... The proposal does  
20 not meet the requirements of the 1991 Agreement and fails to ensure  
21 sufficient water flow for river restoration. Acknowledging the  
22 inadequacies of the Draft Fish and Wildlife Program is paramount.  
23 Under the utilities' Draft Fish and Wildlife Program, there will be no  
24 connection to Eklutna Lake or upper tributaries leaving the most  
25 significant portion of the river dry. Without provisions for fish passage,  
26 the program will fail to restore the ecosystem as intended by the 1991  
27 Agreement. The resolution's critique underscores the necessity of a  
28 more comprehensive and ecologically sound solution.”

29  
30 “The current plan submitted to the Governor does not go far enough  
31 to return salmon to the Eklutna River and has ignored the Native  
32 Village of Eklutna, who has asked for an alternative path forward that  
33 connects the river to the lake and returns historic water flows to the  
34 river so fish can spawn. I ask the assembly to submit comments in  
35 support of the Native Village of Eklutna and the return of the river to  
36 its natural state.”

37  
38 **2. Compliance with the 1991 Agreement.** Public comment received  
39 specifically called out concerns that the Portal Valve option in the  
40 Proposed Final Fish and Wildlife Program does not meet the intent  
41 of the 1991 Agreement.

42  
43 “We appreciate the Assembly's support of the removal of the Eklutna  
44 Lake Dam because it is the only alternative to meet the purpose of the  
45 Purchase Agreement. The Purchase Agreement requires that the  
46 utilities work with key federal agencies to develop a Fish and Wildlife  
47 Plan with the purpose of developing and implementing measures to  
48 “protect, mitigate damages to, and enhance fish and wildlife  
49 (including related spawning grounds and habitat).” The inadequacy  
50 of the AWWU Portal Valve Alternative to achieve the intent of the

1 Purchase Agreement should make it a nonresponsive option for the  
2 Fish and Wildlife Plan.”  
3

4 “The [1991] Agreement was meant to provide a deregulatory  
5 alternative that was better suited to Alaska than a ‘one size fits all’  
6 FERC process. It’s fair to say the power companies took advantage of  
7 this loose framework and applied a literal legal interpretation that  
8 benefited only them. The power companies claim they were inclusive,  
9 but their inclusivity (sic) was highly performative. Other than the initial  
10 flushing flow, I am not aware of any case where they altered their  
11 practice or plans based on input from anybody else, including NVE,  
12 the public, the feds. The power companies claim they only have to  
13 mitigate, for their impacts, not restore the Eklutna River. ‘Restoration’  
14 is the highest and preferred form of mitigation, according to the EPA  
15 and US Army Corps of Engineers. ... I think it likely that the 40 cfs of  
16 instream flow will be insufficient to attract salmon, at which point they  
17 will say ‘We told you so.’ 40 cfs is a trickle compared to normal historic  
18 flows of 1,000 cfs. We were promised increased operating efficiencies  
19 when CEA acquired ML&P. Those promised efficiencies should have  
20 been sufficient to offset any loss of power production from Eklutna. To  
21 understand why the power companies have gone to the mat over  
22 Eklutna, follow the money.”  
23

24 “Their contractor was paid to support only one proposal that didn’t  
25 affect their operations, one iota. The Proposed Final Program does  
26 not meet the intent or requirements of the 1991 Agreement. It leaves  
27 a mile of the river completely dry and does not provide adequate flows  
28 to restore fish and natural processes below the dam. It also provides  
29 no fish passage above the dam into Eklutna Lake and the resource-  
30 rich upper tributaries. I was aghast at some of the tactics the  
31 contractor used to manipulate input. At one point, they told the group  
32 that the AWWU portal option was off the table, only to find out they  
33 were secretly meeting on an agreement with the water utility to solidify  
34 the portal option.”  
35

36 **3. Concerns about the fish and wildlife analysis.** Several public  
37 comments raised concerns about the disconnection between the  
38 Hydroelectric Owners analysis and other state and federal  
39 agencies written feedback.  
40

41 “The owners propose flows that all resource agencies (AK Dept of Fish  
42 and Game, U.S. Fish and Wildlife Service, and National Marine  
43 Fisheries Service) found inadequate to support salmon.” “As a  
44 fisheries biologist for the USFWS for 8 years, I studied sockeye  
45 salmon in waterways on Joint Base Elmendorf Richardson, nearby  
46 Eklutna River. Sockeye strays naturally colonized a man-made lake,  
47 Sixmile Lake; genetics show these colonizers are related to sockeye  
48 from the Big Lake area. The Owners and occasionally ADFG have  
49 questioned if sockeye would come back if the Eklutna River was  
50 reconnected to Eklutna Lake, using this perceived uncertainty as a

1 reason for selecting the AWWU portal alternative. There is strong  
2 evidence from a proximate system that sockeye will naturally  
3 repopulate, the timing of return and carrying capacity of the lake can  
4 be debated but the notion that they will not come back is not  
5 scientifically supported.”  
6

7 According to one of the coauthors of the research, the Owners  
8 misrepresented and downplayed their findings by equating the  
9 potential sockeye salmon run that may have spawned in the lake (up  
10 to 15,000) with all the salmon historically present in the entire system,  
11 including those harvested annually at the mouth of the river and in  
12 Knik Arm by the Dena'ina, and by failing to mention documented  
13 concerns from the 1992 divestiture summary report on the sale of the  
14 Eklutna hydroelectric project that the "complete loss" of Eklutna Lake's  
15 sockeye salmon run "undoubtedly occurred with construction of the  
16 1929 dam.”  
17

18 **4. Cost.** “The [Hydroelectric Utility Owners] propose to tap into  
19 Anchorage's drinking water supply pipeline and spend \$57 million  
20 in taxpayer and ratepayer money to put a trickle of water into the  
21 river that won't meaningfully restore anything. The Assembly has  
22 said that it will not provide funding or authorizations for this  
23 program and should make that clear to the owners and the  
24 Governor.”  
25

26 **5. Respecting Recognized Government to Government**  
27 **Relationships.** Several comments received stated concerns  
28 about the lack of official role the Native Village of Eklutna had in  
29 the process and acknowledging the cultural significance of the  
30 Eklutna River.  
31

32 “I remember hearing stories from Grandpa Leo about how big the  
33 kings were. You'd have to carry them on your back. Another one kind  
34 of made me laugh, was that the bears would be picky with their food,  
35 as you could walk on the backs of the salmon in the Eklutna River.  
36 There's a reason our people, the Dena'ina Athabascans, settled in  
37 Eklutna and the surrounding areas. The land sustains life and with the  
38 blessings of the Lord, our families are fed. ... The Eklutna dam was  
39 not something the tribe of Eklutna wanted. We are the landowners.  
40 How is that right? The outcome of the dam, resulted in the river turning  
41 into a creek, the flourishing salmon turning into none, our people  
42 without our food source and NOW, our people are in the fight of our  
43 lives to get back what was stolen from us. ... As a Dena'ina  
44 Athabascan woman, who HURTS from what was stolen from us as a  
45 tribe, I SINCERELY, thank you for helping to fight for myself, for my 5  
46 children, for my tribe of Native Village of Eklutna and the communities  
47 of Alaska to make this wrong a right. Chin'an.”  
48

49 “This is truly a generational opportunity to restore once-abundant  
50 salmon runs, which will benefit the Anchorage community and bring a

1 modicum of justice to the Native Village of Eklutna, which settled near  
2 the Eklutna River and was never consulted or asked about the idea of  
3 dewatering the river and decimating its salmon runs.”  
4

5 “As we live on colonized lands, restoring the full length of the Eklutna  
6 River is one of many steps towards healing from the legacy of settler  
7 colonialism and building a world in which all of us have everything we  
8 need.”  
9

10 “This [the Proposed Final Fish and Wildlife Program] does not address  
11 the ecological and cultural needs of the region and community; we  
12 must put forth an option that fully restores the river so that fish can  
13 once again thrive in the area. I believe that fully restoring the Eklutna  
14 River is best for our community. It will provide renewed cultural  
15 connection for the Native Village of Eklutna and Indigenous Alaskans  
16 who want to see their river full of fish again. It will allow for more  
17 recreational opportunities for our growing communities who are still  
18 seeking outdoor opportunities and more places to fish- something that  
19 makes Alaska, and Southcentral in particular, so unique. I applaud the  
20 Assembly's resolution to support the Native Village of Eklutna's  
21 proposal, returning autonomy and ownership to people whose land  
22 was stolen from them. They are the original stewards of this resource  
23 and we owe it to them to let their vision lead what restoration looks like  
24 at Eklutna.”  
25

26 “Most importantly, restoration of the Eklutna River would be a long  
27 overdue opportunity to address the injustice against the Native Village  
28 of Eklutna, upon whose land the dam was constructed without their  
29 consent or involvement. Thank you, assembly members, for your  
30 support of Eklutna River restoration.”  
31

32 “Advocating for Indigenous alternatives upholds Indigenous rights and  
33 recognizes their environmental stewardship. The Native Village of  
34 Eklutna and other commenters have proposed meaningful and  
35 carefully-considered alternatives that represent a compromise  
36 between the utilities' concerns and stronger alternatives proposed in  
37 previous engagements. Their alternatives, such as the Eklutna River  
38 Release Facility and dam removal, offer more effective means of  
39 restoring the river while respecting Indigenous sovereignty and  
40 environmental sustainability. But even those thoughtful alternatives  
41 have been overlooked repeatedly. It is not hard to imagine based upon  
42 the history of the Eklutna people that for many generations, their  
43 ancestors embraced the river's abundance while a major city would  
44 engulf them and their lands taken from them. It is clear the Eklutna  
45 River once thrived with the presence of salmon, despite the hydro  
46 project owners' denial of this profound legacy. The utilities may be  
47 attempting to obscure the truth, but they cannot extinguish the  
48 collective memory that has been noted in studies and in public  
49 comments.”  
50



1 “They would hold meetings with the Native Village of Eklutna to tell  
2 people they had met with the tribe, but they never listened to a word  
3 they said. It was horribly disrespectful and disingenuous.”  
4

5 **6. The NVE Alternative.** The Native Village of Eklutna’s alternative  
6 received public comment as well.  
7

8 “The current mitigation plan for the Eklutna Hydroelectric Project that  
9 was submitted to the Governor is insufficient. It does not truly address  
10 and mitigate the harm the hydroelectric dam causes to fish and  
11 wildlife. It would not allow for sufficient, year-round water flow to  
12 restore fish passage above the dam, leaving a mile of the riverbed dry.  
13 ||The Municipality has an amazing opportunity to restore all 5 species  
14 of salmon through the Eklutna River and up to Eklutna Lake by  
15 removing the hydroelectric dam AFTER other renewable energy  
16 projects are constructed. This would create access to salmon that  
17 would benefit the plants and animals along the river, as well as families  
18 like my own in the Anchorage area who could have easier access  
19 to sustainable, nearby salmon runs.”  
20

21 “[T]he Native Village of Eklutna and its partners have provided  
22 alternatives that meet the intent and requirements of the 1991  
23 Agreement, which was to right the historical wrong of destroying the  
24 Eklutna watershed and restore the Eklutna River from its headwaters  
25 to Cook Inlet. These alternatives include an alternative Eklutna River  
26 Release Facility using a siphon pump that would take water directly  
27 from the lake and put it right into the river, avoiding any use of AWWU  
28 infrastructure, and dam removal once replacement renewable energy  
29 is secured, which we believe is feasible within the next decade.”  
30

31 “I appreciate the Assembly's commitment to a full river restoration.  
32 However the proposed plan leaves a mile of river completely dry and  
33 doesn't provide adequate flow to restore fish and natural processes.  
34 There is also no fish passage to above the dam. There are alternatives  
35 that do these things until the dam can be removed, that seem feasible.  
36 I would like to support the Native Village of Eklutna's alternatives that  
37 protect Anchorage's drinking water and restore the Eklutna river.”  
38

39 **For all the above reasons, the Municipality of Anchorage cannot**  
40 **endorse and thus opposes the Proposed Final Fish and Wildlife**  
41 **Program.**  
42

43 **Section 2.** The Municipality of Anchorage does not intend to issue  
44 authorizations or provide funds or any other form of support of the Proposed Final  
45 Fish and Wildlife Program or any alternative that doesn't work toward the restoration  
46 of the full length of the Eklutna River and comply with policy of the Municipality, as  
47 recently enacted by AO 2023-131, As Amended, and codified at AMC 26.30.025A.,  
48 as well as AR 2022-262, As Amended, and AR 2017-324(S).  
49

1 **Section 3.** The Regulatory Commission of Alaska (RCA), under its statutory  
2 powers to initiate investigation into practices and facilities of a public utility, should  
3 review the Proposed Final Fish and Wildlife Program and examine any impacts on  
4 any of the regulated utilities, including but not limited Chugach Electric, Matanuska  
5 Electric, Anchorage Hydropower and AWWU, particularly about impacts to rate  
6 payers and their access to uninterrupted service, **before** any option for a Final Fish  
7 and Wildlife Program is approved by the Governor.  
8

9 **Section 4.** The Anchorage Assembly requests the Hydroelectric Project Owners  
10 to seek a two-year extension of the 1991 Agreement from the signatories, of which  
11 the Municipality is one through the Anchorage Hydropower Utility, to perform  
12 additional analysis, consultation, and coordination with affected parties, including  
13 the Anchorage Assembly and the Native Village of Eklutna, and utilize a public  
14 process to ensure adequate opportunity for ratepayers, taxpayers and residents to  
15 weigh in. The issues at play are too significant to our community to rush to judgment  
16 or exclude key stakeholders. The residents of the Municipality deserve a measured  
17 and comprehensive approach guided by respectful coordination to reach a solution  
18 that enjoys broad consensus among the affected parties.  
19

20 **Section 5:** The Municipality of Anchorage's intent and purpose is to authorize  
21 litigation to protect the Municipality's interests and established policy to the fullest  
22 extent allowed under law to ensure the concerns raised in this Resolution are  
23 addressed.  
24

25 **Section 6.** This resolution shall be effective immediately upon passage and  
26 approval by the Assembly.  
27

28 PASSED AND APPROVED by the Anchorage Assembly this 25th day of June,  
29 2024.  
30

31  
32 

33  
34 \_\_\_\_\_  
Chair

35 ATTEST:

36  
37  
38 

39 \_\_\_\_\_  
40 Municipal Clerk