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February 19, 2024

Ms. Samantha Owens
McMillen Corp.
2607 Western Ave, Unit 360
Seattle, WA 98121

Re: Public Comment on Eklutna River Fish & Wildlife Program

Dear Eklutna Hydro Project Owners,

The Eklutna, Inc. Board of Directors respectfully submits these comments in response to the draft Eklutna River Fish and Wildlife Program (Program) released October 27, 2023.

I. Introduction

Eklutna, Inc. is an Alaska Native village corporation managing the land and interests of Eklutna shareholders. It is well-known Eklutna, Inc. is the largest private landowner in Anchorage, but Eklutna should also be recognized as one of Anchorage's largest philanthropic organizations. Eklutna, Inc. has endlessly contributed its most precious resources to the development of Anchorage – willingly or not.. At first, the flow of the Eklutna River was dammed in 1928, severing the water and salmon from our people. Then, in 1936, a federally-withdrawn reservation of 328,000 acres was withdrawn for the benefit of Eklutna but was eventually reduced by the US Government to a mere 1,900 acres by the 1950s. Part of these remaining lands housed the Eklutna Vocational School, where Eklutna and other tribes' children were made to assimilate to western culture and forced to cede our cultures. Shortly after the school was closed, the US Army began creating one of Alaska's most heavily contaminated sites at Camp Mohawk inside the Eklutna Village. Around the time the US Army left Eklutna, the Alaska Railroad started mining the granite knobs from which the name 'Eklutna' was derived. These acts perpetrated upon Eklutna are difficult to comprehend now.

Our lands provide many painful reminders of what our people have given to Anchorage's development. However, Eklutna, Inc. has continued to contribute to the growth of Anchorage. Utility lines and roads etched through our land. More than a thousand units of housing built on our lands. Land provided for school sites, airports, municipal purposes, parks, and public safety. Eklutna has long been deeply invested in the prosperity of Anchorage and Alaska as a whole. And now, as one of the state's largest land developers, we recognize the critical intersection between environmental stewardship and economic development. The restoration of the Eklutna River is more than a conservation effort; it is a strategic investment that will protect salmon habitat, boost tourism, elevate recreational activities, and increase property values.

Eklutna, Inc. and its partners took the first step in restoring the Eklutna River by taking down the lower river dam. Now, we urge the Project Owners (Chugach Electric Association, Matanuska Electric Association, and the Municipality), but also the entire Anchorage community, to collaborate in enhancing the draft Program to restore the remainder of the Eklutna River. By doing so, we will shape Anchorage into a city that offers a high quality of life, with the Eklutna River serving as a natural, cultural, and economic centerpiece of the city. Simply put, the AWWU Portal option¹ forwarded by the Project Owners does not achieve those goals for the Eklutna River.

II. NALA, ANSCA, and the Eklutna River

We urge a more thorough examination of the economic impact on landowners, such as our corporation, due to the devaluation of landholdings. Eklutna, Inc. owns nearly all the land on either side of the Eklutna River and around Eklutna Lake. Additionally, the State of Alaska's Public Access Assertion and Defense unit has deemed Eklutna, Inc. as the owner of the riverbed of the Eklutna River. By this assertion, the Eklutna Dam is sitting upon Eklutna, Inc. land. We would then pose the question of whether the Eklutna Dam, on Eklutna, Inc. property, is in trespass. There should be consideration of the legal ramifications of Eklutna, Inc.'s ownership of the riverbed. There is also a need for the Program to account for riparian zone rights with the consideration of the effective regulatory taking of the Eklutna, Inc. land, suppression of economic opportunities on these lands, and the continued destruction of public and subsistence resources. These are "other considerations under State law" that are important to the analysis.

On a related topic, the North Anchorage Land Agreement (NALA), as interpreted by the State of Alaska, prohibits development of Eklutna lands within the Chugach State Park. This prohibition has been in place for over 40 years. NALA is rooted in the conflicts between the Municipality, State of Alaska, and Alaska Railroad as Alaska Native Claims Settlement Act (ANCSA) selections were made. ANCSA lands were selected based on cultural and subsistence values and areas of potential economic value - a vehicle for economic development leading to opportunities and benefits for the shareholders of Eklutna. NALA freezes nearly 40,000 acres of Eklutna, Inc. lands within Chugach State Park from any economic or occupational benefits due to park management restrictions. The combination of NALA lands, lands bordering the Eklutna River, and a dry river bed results in the decimation of economic value for over half of the Eklutna, Inc.'s ANCSA land conveyances with severely diminished subsistence and cultural value. These agreements, where promises to the Eklutna people are broken or where we were not even considered a party, continue to stunt economic growth for Eklutna, Inc. and Municipality. Meanwhile, various public and quasi-public entities have generated hundreds of millions of dollars in revenue from the resources on the lands for the last 30 years.

III. Preserving Indigenous History and Rights

¹ The AWWU Portal is also referred to as the Eklutna River Release Facility option in the Program. This option proposes to draw water from Eklutna Lake to spill 27 to 40 cubic feet per second at river mile 11 through an AWWU facility. This leaves one mile of the Eklutna River dry from the release facility to the Eklutna Dam, thus not connecting Eklutna Lake to the river system.

The historical presence of Eklutna around the Eklutna Lake and subsistence issues must be acknowledged and integrated into the decision-making process. In most documents evaluating project alternatives, the original condition of the environment is considered. We suggest including a detailed accounting of the Eklutna River before the 1928 hydroelectric power project, rooted in tribal ecological knowledge from the records of the Native Village of Eklutna and other available sources. The public deserves to understand better what may be gained through connecting the Eklutna Lake to the Cook Inlet. Currently, the Program advances selective studies dispelling the existence and viability of sockeye in the Eklutna Lake. A fair and balanced document would include the narrative of pre-1928 Eklutna River conditions.

Protection of Native hunting, fishing, and gathering rights is a part of Alaska law and federal law. There was no discussion of subsistence rights and resources in the study. This analysis would be included in a Federal Energy Regulatory Commission re-licensing process. We believe the public would expect a detailed description of subsistence resources along the Eklutna River. Rather than discuss Eklutna River public and subsistence resources, the Program inexplicably assesses the recreational impacts on an artificial fishery – Eklutna Tailrace. Please explain the obligation to mitigate an artificial fishery likely created to substitute for the destruction of the prominent Eklutna River salmon runs less than 10 miles away. We do not understand why that impact is worth considering while the value of subsistence fishing and legal obligations to protect these rights is essentially ignored. Another requirement under State law mostly ignored in the Program.

IV. Energy Considerations

Eklutna, Inc. is situated within the service areas of Matanuska Electric Association (MEA) and Chugach Electric Association (Chugach). Eklutna, Inc. is currently exploring alternative energy projects with both utilities that would augment energy generation from alternative/renewable energy sources. We believe it is worth exploring an option where the Eklutna Dam is removed once adequate renewable energy sources are commissioned to replace the production from the Eklutna Project. With the expansion of the Bradley Lake hydro project in the next decade, it appears adequate replacement renewables are available in the next few years.

The stated need for the continuing existence of the Eklutna Hydro Project is the economic value of damming the River. The Program states the Eklutna Project is the lowest-cost energy source in the MEA and Chugach systems. The Program indicates the electricity is generated at \$85/MWh. Recently, it was reported that the Houston Solar project power was purchased by MEA at \$65/MWh. New power purchase agreements are typically based on the avoided cost of the utilities' portfolio, which is the cost the utilities would have to pay to produce the same power. Chugach Electric's avoided cost is reportedly even lower. A major cost, forwarded by the Project Owners, for dam removal or dam replacement is replacement energy costs – upwards of \$150 million in the next 35 years. The Program predicts replacement electricity rates to reach over \$130/MWh in 24 months and likely escalate sharply from there. We understand solar is an intermittent energy generation source, and a firm power source such as natural gas or hydroelectric is preferred, but we question how the replacement energy is determined based on these numbers as well as the CAPEX costs we will address later in this letter.

We would also note the Eklutna Generation Station (EGS) is rarely operating at full capacity, which would employ all of its 10 gas-powered turbines. It is important to consider the necessity of a 40-MW of hydroelectric generation when the EGS is only fully-employed for a handful of days per year. The EGS provides the same firm power supply as the hydro project for timely dispatch and offsetting renewable energy variability. We understand natural gas supply is reportedly waning, but shortfalls in gas supply cannot be offset by Eklutna Hydro. Thus, what is the “utility” of this hydropower resource when there is gas plant eight times its size nearby, providing firm power, needed for a handful of days per year, which dwarfs power to be dispatched from Eklutna Power Plant. When utilities are actively lobbying against Renewable Portfolio Standards, is it really the clean, firm power that is desired or maintaining the low-cost status quo at the expense of another resources?

The Eklutna people had their lands and resources diverted to Anchorage public water usage and electricity generation for the Eklutna Generation Station (ESG) and the Eklutna Dam. We understand the competition between Eklutna, Inc.’s needs and those of the utilities bringing power and water to our community. However, the Eklutna, Inc. board of directors demands a better approach to balance these needs, namely a means of fish passage to Eklutna Lake and more in-stream to the Eklutna River.

V. Corporate and Government Accountability

The Program outlines the remaining process for public review and the Governor’s decision on the final Program. The utility-driven public process is closing, but the Governor’s Public Interest Determination (Determination) process is not well defined. The Program alludes to the Alaska Energy Authority leading the State evaluation process; however, that agency would be an unlikely candidate for executing a public process and delivering a fair decision on the Governor’s behalf. We request greater clarity on which department or division within the State of Alaska will be responsible for the State’s public process leading to the Governor’s Determination decision. Additionally, we request a meeting with the Governor and the state officials directing the public process to express our further position.

VI. Economic Analysis and Utility Revenue

We appreciate the Program recognizing Eklutna, Inc.’s contributions to the CAPEX for the dam replacement options. During the public meetings in January, McMillen consultants were unable to articulate how CAPEX figures for dam replacement ranged from \$118-170 million when Eklutna, Inc. determined the cost of dam replacement would be closer to \$57 million or lower.² The inflated CAPEX has been a driver for the Project Owners to promote the AWWU Portal option, disillusion rate payers, and deny options to meaningfully mitigate damages and enhance fish and wildlife habitat.

The Project Owners have had since 1997 to plan for enhancement and mitigation of the Eklutna Dam’s deleterious impacts upon fish and wildlife habitat on and along Eklutna River. The Eklutna Dam was sold to the utilities, heavily discounted, in a private sale complete with a FERC

² McMillen asked Eklutna, Inc. for cost estimates advice due to our team’s experience in construction and land development.

licensing workaround. Even with that head start, the Project Owners fail to save or plan for the future of the Eklutna River. The result of this level of myopia in the corporate world often results in bankruptcy or plummeting stock prices. Here, the lack of planning and foresight results in the Project Owners advancing the lowest cost and lowest benefit approach to compensate for more than 30 years of neglecting their responsibilities while the Eklutna and ratepayers cover the costs.

VII. Eklutna River Public Access

We would like to note there is public access to the Eklutna River through the Eklutna, Inc. permit system. Historically, we have provided free public access to our lands. Page 58 of the Program incorrectly states there is currently no public access to the Eklutna River that would prohibit new recreational opportunities for fish returning to the Eklutna River. The Project Owners were corrected several times in meetings that Eklutna lands are accessible to the public. With statements like this still included in the Program, it just goes to show the lack of rigor and attention to detail in this process.

VIII. Inadequate Alternative Analysis

We are also disappointed, yet unsurprised, by the option selected by the Project Owners; however, we are more disappointed with the analysis in the draft document. It is extremely unusual for a preferred option to be advanced in a preliminary plan without fully evaluating each viable option for the public's review. Typically, in a planning or project document, a suite of 3-4 options is identified, and each option is discussed and evaluated through a series of criteria, on a point-by-point basis, leaving the public with an opportunity to review the case for each option. Options forwarded by the federal agencies and the Native Village of Eklutna were not thoroughly evaluated under the same criteria the Portal option was given. Thus, the public reviewing the Program only received a serving of the benefits on the AWWU Portal while the other options were summarily dismissed. This is not dissimilar from the eight public meetings where a representative of the Project Owners focused on the merits of the preferred alternative while deriding the other options. For the Program to be legally-defensible, a full evaluation of each option – now including dam removal – should be included in the Program. By only forwarding analysis of the AWWU Portal option, it is our believe the Program is ripe for legal challenge as it rendered this multi-year planning process moot by not explaining each viable option and explaining the reasons for a preferred alternative based on a critical, purposeful evaluation of what the Agreement parties and working groups advanced to Project Owners.

IX. Request for Eklutna River

Six years ago, Eklutna, Inc, and partners removed the lower Eklutna Dam – an artifact of an initial violation of rights of the Eklutna people. Eklutna, Inc. and the Native Village of Eklutna have worked with US Environmental Protection Agency and US Army Corps of Engineers to remediate the Camp Mohawk contamination. The Alaska Railroad stopped mining the Eklutna Knobs and returned the land to Eklutna where we host youth cultural camps and pow-wows for the general public. The need to reconcile past harms have been recognized and addressed by

most public entities. Now, this is the time for the Project Owners to meet the intent of the 1991 Agreement's obligation and invest in our community's future.

The Eklutna, Inc. Board of Directors strongly urge the Project Owners to prioritize the concerns raised in our comments and work collaboratively with us towards solutions that ensure the sustainable development and preservation of the Eklutna River ecosystem. A solution where the Eklutna River is fully-connected from the Eklutna Lake to the Knik Arm/Cook Inlet is our desired outcome. If additional time is needed to continue negotiations and evaluations on how to reach the desired outcome, we support delaying finalization of the Program and delivery to the Governor for up to three years to ensure the outcome is sensible for our community.

In order to further outline our position on the future of the Eklutna River, we welcome the opportunity to meet with the Project Owners. Please feel free to contact the Eklutna, Inc. CEO, Kyle Foster, at 907-696-2828 or kfoster@eklutnainc.com.

Sincerely,

A handwritten signature in black ink that reads "Michael Curry". The signature is fluid and cursive, with a long, sweeping underline that extends to the right.

Michael Curry
Board Chair and President

CC: Governor Michael J. Dunleavy
Mayor David Bronson
Christopher Constant, Anchorage Assembly Chair
Aaron Leggett, Native Village of Eklutna
Sarah Lukin, Cook Inlet Region, Inc.
Tony Izzo, Matanuska Electric Association
Arthur Miller, Chugach Electric Association