

**In The Matter Of:**  
*Alaska Office of the Governor  
1991 Fish and Wildlife Program*

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*September 9, 2024*

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*Northern Lights Realtime & Reporting, Inc.  
545 East 12th Avenue  
Anchorage, Alaska 99501*





# 1 | PROCEEDINGS

2 MS. BYLSMA: Good afternoon,  
3 everyone. Thank you so much for coming this  
4 afternoon. Name is Rachel Bylsma. I'm deputy  
5 chief of staff to Governor Dunleavy.

6 First, I just want to take roll  
7 call if everyone's here, for the record. So if  
8 you could please respond for the transcription.

11 Gene Hickey, senior assistant  
12 attorney general, representing the State of  
13 Alaska.

14 MR. HICKEY: Present.

15 MS. BYLSMA: Representing Alaska  
16 Energy Authority, Executive Director Curtis  
17 Thayer.

18 MR. THAYER: Here.

19 MS. BYLSMA: And Mark  
20 Billingsley.

21 MR. BILLINGSLEY: Here.

22 MS. BYLSMA: Representing the  
23 Municipality of Anchorage, Deputy Municipal  
24 Attorney General Joseph Busa.

25 MR. BUSA: Here.

1 MS. BYLSMA: And Director Mark  
2 Corsentino.

3 MR. CORSENTINO: Here.

4 MS. BYLSMA: Representing the  
5 National Marine Fisheries Service from the  
6 National Oceanic and Atmospheric  
7 Administration, Sean McDermott.

8 MR. McDERMOTT: Here.

9 MS. BYLSMA: And via phone,  
10 Alisha Falberg.

11 MS. FALBERG: Yes. Thank you.

12 MS. BYLSMA: Representing the  
13 U.S. Fish and Wildlife Service, Doug Cooper.

14 MR. COOPER: Present.

15 MS. BYLSMA: And Mike Routhier.  
16 Did I say that correctly?

17 MR. ROUTHIER: Here. Routhier.

18 MS. BYLSMA: Routhier. Okay.  
19 Representing the Chugach Electric  
20 Association, Chief Operating Officer Andrew  
21 Laughlin.

22 MR. LAUGHLIN: Here.

23 MS. BYLSMA: And Samantha Owen.

24 MS. OWEN: Here.

25 MS. BYLSMA: Representing

1 Matanuska Electric Association, Chief Operating  
2 Officer Tony Zellers.

3 MR. ZELLERS: Here.

4 MS. BYLSMA: And Todd Glass.

5 MR. GLASS: Here.

6 MS. BYLSMA: And representing the  
7 Native Village of Eklutna, President Aaron  
8 Leggett.

9 MR. LEGGETT: Here.

10 MS. BYLSMA: And Curtis McQueen.

11 MR. McQUEEN: Here.

12 MS. BYLSMA: Wonderful.

13 Also present is Sandra Mierop.

14 Did I say that correctly? She's our court  
15 reporter to provide the transcription of the  
16 meeting.

17 And then also Juliana Soane,  
18 she's executive assistant in the Office of the  
19 Governor to help with any technical or  
20 administrative assistance.

21 I appreciate you all making the  
22 time to come this afternoon and provide some  
23 additional information for the Governor on some  
24 of the various issues and questions related to  
25 the Eklutna Hydro Project and the proposed

1 final Fish & Wildlife program.

2 As noted in the 1991 Agreement,  
3 the Governor is required to review the final  
4 proposed fish and wildlife program, the  
5 comments, the testimony, summary and analysis  
6 materials, and any alternative recommendations  
7 made for the protection, mitigation, and  
8 enhancement of fish and wildlife resources.

9 He's required to attempt to  
10 reconcile differences among the party and --  
11 among the parties and give due weight to the  
12 recommendations, expertise, and statutory  
13 responsibilities of the U.S. Fish & Wildlife  
14 Service, National Marine Fisheries Service, the  
15 state resource management agencies, and the  
16 purchasers.

17 The Governor is required to give  
18 equal consideration to eight different  
19 elements: The purposes of efficient and  
20 economical power production, energy  
21 conservation; the protection, mitigation of  
22 damage to and enhancement of fish and wildlife  
23 resources, including the related spawning  
24 grounds and habitat; and the protection of  
25 recreational opportunities; municipal water

1 supplies; preservations of other aspects of  
2 environmental quality; other beneficial public  
3 uses; and the requirements of State law.

4                   Based on this review, the  
5 Governor shall establish a final Fish and  
6 Wildlife Program that adequately and equitably  
7 protects, mitigates damages to, and enhances  
8 fish and wildlife resources affected by the  
9 Eklutna project.

10                  The Governor is very conscious of  
11 the critical importance of this decision to all  
12 parties present, as well as the public at  
13 large.

14                  So pursuant to the Governor's  
15 responsibilities under this agreement, this  
16 meeting was convened to try and obtain some  
17 additional information from the 1991 Agreement  
18 parties, as well as the Native Village of  
19 Eklutna. And then in an effort to be  
20 consistent with, you know, aspects of the 1991  
21 Agreement about the public process and the  
22 comments process, we requested that the  
23 documents be submitted to all parties and the  
24 Native Village of Eklutna, and then we have a  
25 transcription of the meeting so that it can be

1 posted on the website, again, for all parties  
2 and for the public, upon request, per the  
3 agreement.

23 Juliana is going to run our  
24 technology and advance your slides, so, if you  
25 could say "next" for her benefit, and then also

1 for the transcription and for the attorney on  
2 the phone so that we can help people keep track  
3 of where we are as we move along.

4                   And if for some reason you need  
5 to step out, you can go through this door and  
6 just knock when you need to get back in, and  
7 Juliana will let you back in.

8                   So, with all that said, why don't  
9 we get started?

10                  So if I can turn it over then to  
11 Chugach and MEA.

12                  MR. GLASS: Great. Thank you.

13                  MR. HICKEY: Before we get  
14 started, do you want to reserve any time?

15                  MR. GLASS: We'll see how we go.  
16 Hopefully we will, but you never know.

17                  Very good. Thank, Juliana.

18                  Hello again. Todd Glass, Wilson  
19 Sonsini energy lawyer. I've been working on  
20 hydro for 25 years.

21                  With me today is Samantha Owen.  
22 She's a senior regulatory consultant at  
23 McMillen, and she led the process from  
24 consulting, studies, and the alternative  
25 processing, leading to the proposed final

1 program.

2                   Also you have Andrew Laughlin,  
3 the COO of Chugach, and Tony Zellers, the COO  
4 of Matanuska. Their jobs are to keep the  
5 lights on and to both implement and enforce  
6 prudent utility practice at their  
7 organizations, and the Eklutna project is a  
8 critical part of that.

9                   We're here to explain, support,  
10 defend the proposed final Fish and Wildlife  
11 Program, the owners' implementation of the  
12 program over the last five years, and whatnot.  
13 I'm going to hand it over to Sam who's going to  
14 talk through the first response, and I'll  
15 handle the balance when she's done.

16                   MS. OWEN: Perfect. Thank you,  
17 Todd.

18                   So, yes, I get one question; Todd  
19 gets five; that's cool.

20                   The proposed final program we  
21 believe does meet and successfully balance all  
22 eight criteria that are found in the 1991  
23 Agreement, and I'm just going to briefly pop  
24 through them really quick?

25                   Again, this is all in the

1 briefing we provided last week, so I won't  
2 spend too, too much time.

3 I'm going to combine the first  
4 two, "Efficient and Economical Power Production  
5 and Energy Conservation."

6 So amongst all the alternatives  
7 that were evaluated, this is the one that  
8 allowed us to maintain full reservoir  
9 fluctuation. It allows us to operate the  
10 project year-round, and it had minimal need for  
11 replacement energy rate. If the water goes  
12 down the river, it can't go through the  
13 powerhouse, and all of that will require  
14 replacement of energy. So as far as these  
15 first two bullets are concerned, this is one  
16 that had the least impact on the hydro project  
17 as a whole.

18 The third bullet is: "Fish and  
19 Wildlife Protection, Mitigation, and  
20 Enhancement."

21 We firmly believe that this  
22 proposal will provide significant benefits for  
23 fish and wildlife in the watershed. It puts  
24 water in 11 out of 12 miles of the river; it  
25 should benefit all four species of salmon that

1 are currently spawning in that river, including  
2 Chinook, coho, pinks, and chums.

3                   And then, based on the models  
4 that were developed and all the model runs that  
5 we executed with U.S. Fish and Wildlife and  
6 NMFS and NVE through our technical working  
7 groups, we believe it should provide 96 percent  
8 of the available spawning habitat for Chinook,  
9 and 99 percent of the available spawning  
10 habitat for coho below the AWWU portal bow,  
11 which is the point of flow releases.

12                   The fourth bullet, protection of  
13 recreation opportunities, we've added several  
14 measures in the proposed final program that  
15 specifically speak to recreation. I'm going to  
16 hit on three major points.

17                   One, because there's no change to  
18 reservoir fluctuations, there would be no  
19 increased or any additional kind of erosion  
20 impacts on the lakeside trail, which is one of  
21 the most popular recreational facilities out  
22 there.

23                   Also, because the water releases  
24 are about a mile below that campground right at  
25 the lake outlet, in our conversations with

1 AD & R they believe that it has limited risk of  
2 introducing additional negative bear-human  
3 interactions through the campground.

4 And then, third, the tailrace  
5 fishery, which is actually not in the Eklutna  
6 watershed but down in the tailrace of the power  
7 project itself, is a pretty popular  
8 recreational fishery; and this proposal has the  
9 least impact on that tailrace fishery. And we  
10 actually think it probably might have no  
11 impact, but there is the potential for strain,  
12 and so we recommended that that be included in  
13 the monitoring program as a whole that is part  
14 of the monitoring impact and management  
15 approach.

16 As far as Municipal water  
17 supplies are concerned, as we all know, the  
18 Eklutna Lake provides 90 percent of the  
19 municipal water supply for the Municipality of  
20 Anchorage. We've coordinated with AWWU  
21 thoroughly throughout this entire process, and  
22 we think our proposal has no significant impact  
23 or threat to the municipal water supply,  
24 whether that be the infrastructure, the water  
25 availability, or the water quality. And there

1 are several measures that were included in the  
2 proposed final program to achieve just that.

3 AWWU was involved throughout the  
4 entire concept, design, and process, and has  
5 also been involved in several negotiations  
6 leading up to the submittal of the proposal to  
7 the Governor.

8 Then we move on to preservation  
9 of other aspects of environmental quality.  
10 We've interpreted this to be carbon offset; so  
11 because it has the minimal impact on  
12 replacement energy, it also has the minimal  
13 impact on carbon offset.

14 And then other beneficial public  
15 uses, we did a cultural resource study, and  
16 we've heard extensively from the tribe that  
17 water in the river and salmon returning to the  
18 Eklutna River is an important cultural  
19 resource; and since it will have, we believe,  
20 significant benefits to that natural resource,  
21 we believe it will have significant benefits to  
22 cultural resources, as well.

23 And then requirements of state  
24 law, we coordinated with all the state agencies  
25 throughout this process and fully intend to

1 achieve all permitting that might be needed in  
2 order to implement the process.

3 So, that said, we would like to  
4 point out that we do believe some of the other  
5 proposals put forward maybe don't balance all  
6 eight criteria as well and focus more in on  
7 that third bullet, just the "Fish and Wildlife  
8 Protection, Mitigation, and Enhancement," and  
9 hope that's taken into consideration going  
10 forward.

11 This also jump-starts me into my  
12 next slide.

13 So, recently, pumped hydro --  
14 Mark -- was put forward to the Assembly on  
15 August 23rd, 2024; and pumped hydro was a  
16 concept that was looked at maybe four years or  
17 so ago in relation to Eklutna. This old  
18 concept which was much bigger, right, closed  
19 loop, five reservoirs, paired with new wind,  
20 almost \$5 billion, was proposed by the Alaska  
21 Institute of Climate and Energy in 2020. That  
22 actually ended up in our -- the project owners'  
23 initial information package back in 2020.

24 AEA actually looked further into  
25 this, but my understanding is that it

1       ultimately was not pursued for various reasons.

2                   Then and now, the project owners  
3       do maintain that the purpose of the 1991  
4       Agreement is to mitigate the existing project,  
5       not build a new project that we firmly believe  
6       would need to be further regulated. So, again,  
7       kind of outside the scope of the 1991  
8       Agreement.

9                   But, that said, new concept put  
10      forward to the Assembly in late August, and  
11      this is a -- I would just kind of want to point  
12      out this is different than what was looked at  
13      before. This would be -- and, Mark, correct me  
14      if I get anything wrong -- an open-loop  
15      concept. It would have one reservoir, which  
16      would be Eklutna Lake itself. It would also be  
17      paired with new wind and solar. And I don't  
18      think any costs were put forward for this one.

19                  We haven't had a lot of time to  
20      look at this, but we have had time to evaluate  
21      it at a high level and wanted to share some of  
22      our initial thoughts. And first being that --  
23      well, one, we were a little surprised because  
24      open loop means that there would not be a  
25      closed reservoir at the bottom. We'd be

1 drawing water straight from the Knik River.  
2 And at that point, the tailrace is within the  
3 zone of tidal influence that, at certain points  
4 throughout the month, there would be brackish  
5 water in that area and very heavy sediment  
6 load.

7 So the way it's currently  
8 proposed, that would actually be the public  
9 water supply for about four months out of the  
10 year. And then that water would then be pumped  
11 up into Eklutna Lake and down into the Eklutna  
12 River. So off the head, we think it would have  
13 pretty significant impacts on the public water  
14 supply and overall ecosystem.

15 And then there are some other  
16 more engineering feasibility concerns that we  
17 have, and we can go to the next slide.

18 I'm not going to read all of  
19 that, I promise. But, the two things I wanted  
20 to point out is I think what we heard -- and I  
21 was not at the Assembly meeting, but having  
22 watched the YouTube version of it, I think one  
23 of the points that was brought forward was that  
24 there's a lot of existing infrastructure there,  
25 and therefore it will probably be very cost

1 effective.

2 We really want to highlight that,  
3 yes, there's an existing intake; yes, there's  
4 an existing tunnel; yes, there's an existing  
5 powerhouse; none of which was designed for  
6 pumped hydro. So, I mean, this would basically  
7 involve gutting the powerhouse, putting in new  
8 turbines. Turbines that are currently there  
9 are not designed for reversible flow. It's  
10 totally unknown if the penstock and the tunnel  
11 would withstand that pressure going uphill and  
12 pumping water up into the lake.

13 And then, third, the intake  
14 itself is definitely not designed for  
15 reversible flow.

16 So, yes, there's existing  
17 infrastructure; it was not designed for this  
18 purpose back in the '50s.

19 And then the last thing here is  
20 just based on, again, what we saw in that  
21 presentation, we just don't think there's  
22 enough storage. When you limit the -- part of  
23 the proposal is to limit the storage in the  
24 reservoir between elevation 850 and 870, and  
25 that reduces the storage capacity of the lake

1 by about 60 percent. So, the amount of water  
2 that we're talking about, there isn't enough  
3 storage to contain that within that elevation  
4 bracket, and you would start spilling -- per  
5 the map that we've run, pumping the water  
6 uphill over the summertime for four months, you  
7 would actually start spilling only about after  
8 a month or so. And then even the water that  
9 you do have in the lake between those two  
10 elevations, letting it go back downhill in the  
11 winter, you'd -- running at about half  
12 capacity, you'd get about a hundred days' worth  
13 of generation, or about 40-some-odd -- 47 or so  
14 gigawatt hours compared to the 169 that we  
15 currently do.

16 So those are our initial  
17 thoughts. We put it all down because we know  
18 you got a copy of the presentation, so if you  
19 want to have more questions about that, I'd be  
20 happy to answer them.

21 But I think, with that, I'm going  
22 to turn it over to Todd.

23 MR. GLASS: Juliana, next slide,  
24 please.

25 Thank you.

1                   I'm not going to go over each of  
2 the legal points in the briefs or our responses  
3 to Questions 2 through 6. I think they're  
4 fairly laid out in the brief; references to  
5 contracts and the laws and the various facts.

6                   What I do want to do is make a  
7 few points; five in particular.

8                   The first one is is it's  
9 important for the Governor and Governor's legal  
10 staff to actually look at what's in the 1991  
11 Agreement, not what people want to be in the  
12 1991 Agreement in 2024.

13                   There is -- unlike FERC  
14 licensing, there is not a body of State or  
15 Federal law and regulations that can add things  
16 in. You have to look at the 1991 Agreement on  
17 its face. So one-of-a-kind contracting has to  
18 be written in a straightforward manner.

19                   The second thing is that if you  
20 do take a look at the FERC process and  
21 precedent that were in the briefing, don't fall  
22 for selective references. You have to look at  
23 the entire body of FERC licensing law.

24                   A few of them.

25                   The first one is sure, licensees

1 in the FERC process do have to look at the  
2 cumulative impact, but they don't have to  
3 address cumulative impacts. It is simply wrong  
4 to tell the Eklutna project owners that they  
5 have to correct everything back to 1929 when  
6 they only bought the project in 1997. That's  
7 just not the way it's done in FERC. It's not  
8 done anywhere.

9 We don't have to require every  
10 impact to be addressed, either. That's not the  
11 way things are at FERC. If that were the case,  
12 every one of the more than 2,000 FERC projects  
13 would have been pulled out through  
14 pre-licensing.

15 And, finally, as both NMFS, as  
16 well as National Fish and Wildlife Service,  
17 there is no Section 18 fishway mandatory  
18 condition.

19 So let's keep going on.

20 As you start to look at the  
21 Assembly approval in voting, the Assembly  
22 approval was not required, but it didn't really  
23 matter. Like, the one critique I would say of  
24 the Municipality's briefing is they had a  
25 selective history that they chose to

1 acknowledge.

2 In reality, lawyers for the  
3 Municipality have been involved every step of  
4 the way from 2017 through April of this year.  
5 Ralph Duerre and then Ben Bowman, assistant  
6 Municipal attorney showed up at every single  
7 meeting and participated in every single  
8 decision we made.

9 Similarly, Kolby Hickel, and also  
10 Mr. Corsentino. Kolby Hickel participated for  
11 three years; Mark Corsentino for over a year  
12 and a half.

13 All of the decisions were made at  
14 a unanimous basis. There were no votes taken.  
15 And the owners acted as one in producing,  
16 through the process, the official proposed  
17 final program.

18 The second thing worth noting  
19 here is that the Municipality didn't just lose  
20 its rights; it surrendered them voluntarily as  
21 a means to gain regulatory approval for a  
22 billion-dollar transaction, which the  
23 Municipality gave a billion dollars. They  
24 didn't lose them; they gave them up.

25 And we appreciate that the change

1 in Administration may change views on that  
2 history; but Chugach and MEA and the owners  
3 should not have to suffer them.

4                   The fourth thing that I want to  
5 say is that the Governor's staff, especially,  
6 should recognize the RCA's authority. HP, just  
7 like Chugach and MEA and AWWU, are regulated  
8 utilities, and they have to behave like public  
9 utilities. They have to engage in prudent  
10 utility practice.

11                   Second thing under that subpoint  
12 there is that the RCA has clear authority that  
13 to supercedes and voids Assembly actions that  
14 are seeking to override them or interfere or  
15 slow down.

16                   The voting rights that were given  
17 up and that Assembly is appealing now just  
18 simply, you know, won't override what the RCA  
19 wants.

20                   Which gets to the final slide, if  
21 you don't mind, which is, there was a critical  
22 oversight in the briefing in that there is an  
23 assumption by some that the lack of Assembly  
24 approval of the AWWU documents is the end of  
25 the road. That's simply not true. While it's

1 not something that we've been attempting to  
2 threaten the Municipality in the least with, if  
3 the Assembly were to not approve these things,  
4 we would simply go through the Doctrine of  
5 Joint Use.

6 Joint Use in AS 42.05.321, and  
7 whatnot, sets forth a very clear system whereas  
8 if a utility that is allowed to use another  
9 utility's property or any facilities for public  
10 convenience is the necessity, they can go to  
11 the Commission and have the Commission sort it  
12 out and set that compensation at cost.

13 Now, we think in the negotiations  
14 that we have with AWWU, that AWWU is far better  
15 off with its water rights and compensation  
16 levels and all of that to do it. But if the  
17 Assembly chooses not to, for whatever reason,  
18 we will simply go to the RCA and we will be  
19 able to implement the proposed final fish and  
20 wildlife program.

21 So, with that, I think I've got  
22 about a minute left, but I'll reserve that.

23 MS. BYLSMA: Right. Thank you.  
24 I do have a few questions.

25 MR. GLASS: Sure.

1 MS. BYLSMA: So, you -- and some  
2 of them, you probably sort of addressed, but  
3 just trying to expand on that a little bit.

4 You stated in your brief that  
5 this final proposed program was a negotiated  
6 agreement. What does that mean and how -- can  
7 you talk about that process a little bit?

8 MR. GLASS: Sam, you want to talk  
9 about how we attempted to reconcile  
10 differences?

11 MS. OWEN: Absolutely.

12 So we put out our draft program  
13 October 27th, 2023, and then the agencies, the  
14 parties, the State resource management agency  
15 and NVE all provided comments on that draft in  
16 late November, early December of that year.

17 We met with each of them  
18 individually in the month of December.

19 And after that, we reconvened in  
20 January, February, March and April with all of  
21 the agencies involved and talked through their  
22 recommendations, tried to work things out.  
23 Lawyers were present, closed-door sessions.

24 We also had separate meetings  
25 with NVE, and what is put forward in front of

1 you as the proposed final program is the  
2 results of those negotiations.

3 MR. GLASS: And the reopeners.

4 MS. OWEN: The reopeners,  
5 everything in the proposed final program came  
6 out of that.

7 I think there's a significant  
8 clause in there that Doug or Sean fought hard  
9 for, which was what I call the climate change  
10 clause where future water coming into the  
11 reservoir will be split 50/50 between  
12 hydropower and fish resources. The limited  
13 reopener for fish passage, the limited reopener  
14 for the fixed wheel gate, all of that is the  
15 product of those negotiations over that about  
16 five-month period.

17 MR. HICKEY: If I can follow up  
18 on that. When you say that they were part of  
19 the negotiation, to me, then, the final plan,  
20 the draft final plan that you guys produced is  
21 a result of those negotiations, meaning it's  
22 been agreed to. That's what I interpret as  
23 negotiated.

24 MS. OWEN: No pen was put to  
25 paper.

1                   MR. HICKEY: No, no. I  
2 understand. I understand there's no written  
3 agreement.

4                   MS. OWEN: Sure.

5                   MR. HICKEY: But when you say it  
6 was negotiated, you indicated that NVE and, I  
7 believe, the Municipality of Anchorage both  
8 agreed to those components.

9                   MS. OWEN: Well, in this  
10 instance, the Municipality of Anchorage was  
11 functioning as part of the hydro owners group.  
12 NVE was involved in these conversations, albeit  
13 separate from the agencies. And I would say --  
14 and I hope the agencies would agree -- that  
15 those negotiations did happen in good faith  
16 over that five-month period.

17                   MR. HICKEY: I get that. But was  
18 there agreement from NVE as an outside --

19                   MR. GLASS: I'll clarify that  
20 from a legal standpoint. I would say that  
21 there was an agreement in principle among the  
22 parties, but not with NVE. And I think you  
23 should ask each of one of the agencies as to  
24 whether they were in the room, whether it was  
25 the equivalent of a handshake or not. But I

1 would not in any way overstate that. I don't  
2 think that NVE agreed. I don't think that that  
3 would be --

4 MR. HICKEY: Okay. That's what I  
5 want to clarify. Thanks.

6 MR. GLASS: To be clear, if the  
7 Municipality was involved, and the Municipality  
8 supported the agreement at that time, things  
9 changed, obviously, subsequent to that.

10 MR. HICKEY: Because of the  
11 change in administrations?

12 MR. GLASS: (Nods head.)

13 MR. HICKEY: Got it.

14 MS. BYLSMA: So, one of the  
15 parties stated in their brief that you rejected  
16 exploring the pump storage hydro during the  
17 alternatives analysis.

18 Was that the case? Was it  
19 rejected? And if it wasn't analyzed, why was  
20 it not analyzed?

21 MS. OWEN: So, alternatives  
22 analysis, we've been defining that as a very  
23 specific period in time between April and  
24 August of 2023. So, that said, pump storage  
25 hydro was brought forth, like as I said

1 previously, in 2020. So at the very beginning  
2 of this process, and at the time, we maintained  
3 and we continue to maintain that, you know,  
4 pump storage hydro, from our perspective, would  
5 be a brand new project that we think would be a  
6 FERC-regulated project and, therefore, outside  
7 the scope of the 1991 agreement? Right?

8 From our perspective, and  
9 everything that we've read, we think it's  
10 supported that the purpose of the 1991  
11 Agreement is to mitigate the existing project,  
12 not remove it and not build another one.

13 So that's the reason why it was  
14 not pursued in 2020.

15 I don't recall -- although I  
16 would have to go back to my notes to be 100  
17 percent sure -- anyone bringing it forward  
18 again during the alternatives analysis between  
19 April and August of 2023.

20 MS. BYLSMA: One of the parties  
21 also stated in their brief that you, the  
22 project owners, have a position that the  
23 protection, mitigation, and enhancement of fish  
24 and wildlife resources cannot include  
25 reconnecting the river to the lake to support

1 fish passage.

2 Do you feel like that's an  
3 accurate reflection of your position?

4 MS. OWEN: No.

5 MR. GLASS: I think we both agree  
6 on this. Within the four corners of the  
7 document, the document is silent with respect  
8 to fish passage; it's silent with regard to  
9 connection. Therefore, it could be included or  
10 not included as part of the bundle of PME  
11 measures. I don't think the 1991 Agreement  
12 says anything about that specifically.

13 MS. OWEN: To further expand on  
14 that, I would argue that we actually spent a  
15 lot of time and money looking at the potential  
16 for fish passage over the past several years.  
17 Right? I don't -- I would never characterize  
18 the owners as being anti fish passage.

19 But the agencies and NVE, they  
20 both are very set on volitional fish passage,  
21 which means the fish can swim from the river up  
22 into the lake on their own accord, going  
23 upstream. We still have a lot of feasibility  
24 concerns regarding downstream fish passage,  
25 which is getting the juveniles from the lake

1 back into the river with the functioning hydro  
2 project at the same time.

3 So, that said, if there had been  
4 identified a solution that allowed fish passage  
5 that did not have significant impacts to the  
6 hydro project, and was feasible, then I think  
7 it's something the project owners definitely  
8 would have considered.

9 Everything that was brought  
10 forward and that was analyzed had either  
11 required the project to be shut off for seven,  
12 eight months out of the year; required the  
13 project to be removed altogether; or was, quite  
14 frankly, cost prohibitive.

15 MS. BYLSMA: So that kind of  
16 leads into my follow-up question there. If  
17 there's a feasible cost-effective alternative  
18 that is identified to restore full river  
19 connectivity and allow for fish passage, is  
20 that something that you believe can be  
21 implemented under your current proposed  
22 program?

23 MS. OWEN: Through the fish  
24 passage reopeners, yes.

25 MR. GLASS: That's what that is

1 all about. The fish passage reopener  
2 recognized that we don't know of any  
3 engineering means to achieve fish passage --  
4 volitional fish passage upstream/downstream  
5 right now. But at some point in the future,  
6 ten years after flows are reestablished, if the  
7 committee, the management and adaptive --  
8 management committee, identifies a means by  
9 which to do it, the owners are open to going  
10 forward as set forth in the limited reopener.

11 MS. BYLSMA: Are there any  
12 current alternatives that you looked at that  
13 include forward restoration that you feel you  
14 can support?

15 MS. OWEN: Well, I think you  
16 would have to define "forward restoration."

17 But if we're talking about fish  
18 passage into and out of the lake, trap-and-haul  
19 fish passage from the current proposed flow  
20 release point would achieve upstream fish  
21 passage into the lake with the current  
22 proposal.

23 That said, I don't believe any of  
24 the agencies or NVE were particularly fond of  
25 traffic on fish passage. It's not very

1 natural, right? It's exactly what it sounds  
2 like. Trap them, you put them in the truck,  
3 you drive them up to the lake.

4 That said, we still have yet to  
5 find a feasible solution for getting the  
6 juvenile fish back out of the lake.

7 MS. BYLSMA: Final question here,  
8 at least on my part, and you addressed it  
9 somewhat, I believe, in this last slide, but  
10 just to make sure that I understand.

11 In your brief on Page 29 -- or  
12 25, you said that if the Anchorage Assembly  
13 fails to approve the AWWU final agreements, you  
14 will pursue other available avenues to  
15 implement the program.

16 When you are talking about other  
17 available avenues, what are you referring to?  
18 Is it this process to --

19 MR. GLASS: Yeah. We're talking  
20 about the joint use. And it's something I  
21 actually discussed with both Mr. Bowman at one  
22 point and Mr. McLaughlin, the outside attorney  
23 for AWWU at one point.

24 This is not something we wanted  
25 to threaten or anything like that, but per the

1       briefs, it has been brought up that somehow or  
2       another this is the end of the road, and it is  
3       not the end of the road.

4                   As public utilities, as I was  
5       mentioning before, public utilities are paid  
6       for by the public, right? Public utilities.  
7       And as such, there's a longstanding doctrine in  
8       all states where one utility can use the  
9       facilities of another utility so long as it  
10      doesn't interfere or cause any damage or  
11      anything like that. Public necessity requires  
12      it; they can use those facilities. And there  
13      is a specific state process under the Alaska  
14      statutes to allow for the RCA to do that.

15                  And there's two actual statutes.  
16      One says joint use is the policy and it should  
17      be allowed. And then there's the second very  
18      thing which is on the screen here, is that  
19      where there is a failure to agree among the two  
20      utilities on this joint use, there is a means  
21      by which to apply to the Regulatory Commission  
22      of Alaska and have the Regulatory Commission of  
23      Alaska set forth the terms by which this joint  
24      use would occur.

25                  So, we still prefer -- I'm happy

1 to answer any questions. We still prefer to  
2 enter into and implement the three agreements  
3 that we have negotiated in full with AWWU to  
4 achieve this, but if that -- if that doesn't  
5 come to pass, then we'll have to go to the RCA  
6 through the joint use process.

7 MR. HICKEY: May I ask a  
8 follow-up on that then?

9 As I understand this, AWWU has  
10 already signaled its agreement to this process  
11 of what's already been proposed. It's really  
12 the new administration and the Assembly who are  
13 taking the position that that's not our  
14 position. And even if AWWU signs off, as I  
15 understand looking at the briefs, the  
16 Municipality of Anchorage still has to approve.

17 How is that approval interplayed  
18 between the two utilities? I mean, that's not  
19 something that the RCA may have jurisdiction  
20 over if you still require the Municipality's  
21 signing on the dotted line.

22 MR. GLASS: Let me break that up  
23 into a few pieces here.

24 First one is AWWU itself has  
25 committed to go forward with the three

1 agreements and to seek Assembly approval as a  
2 precondition, just like the Governor's approval  
3 is a precondition to going forward with the  
4 agreements.

5 To my information, I don't know  
6 whether the new administration has taken any  
7 position with regard to the agreements yet or  
8 not. They're probably better to answer that  
9 than I am.

10 However, AHP, or Anchorage  
11 Hydropower is a public utility regulated by the  
12 RCA. The Municipality, and I think in the  
13 brief I quoted the actual -- the superseding  
14 authority by the RCA over the Municipality. So  
15 if the Assembly votes those agreements down, we  
16 can go to the RCA to seek it. If the  
17 Municipality says no, the AHP cannot do that,  
18 same answer, we go to the RCA, the RCA orders  
19 it, and it can be dealt with. And I know of  
20 no -- we looked for it. The Regulatory  
21 Commission of Alaska has Authority over any  
22 Municipal decision, and anywhere where there is  
23 conflict between the two, the RCA wins.

24 MS. BYLSMA: Do you have any  
25 other questions? Okay.

1                   Well, those are all the questions  
2 I had. So thank you, Chugach and MEA.

3                   So next we'll have the  
4 Municipality of Anchorage.

5                   MR. BUSA: Thank you.

6                   Good afternoon. My name is  
7 Joseph Busa. I'm the deputy Municipal attorney  
8 for Anchorage, and I'm here on behalf of the  
9 entire Municipal Government to make three  
10 simple points.

11                  One, the minority owners'  
12 proposal is really disappointing. At a high  
13 level -- we'll get into more detail later -- it  
14 would spend \$3.7 million on an annualized basis  
15 to decrease power production at a critical time  
16 for the Railbelt while still leaving an entire  
17 mile of river dry and failing to bring the fish  
18 back to the lake.

19                  Two, a better proposal is on the  
20 table. Pump storage hydropower can use the  
21 existing dam -- not changing the project -- the  
22 existing dam to increase power production for  
23 the whole Railbelt while also re-watering the  
24 whole river and letting the fish come back.

25                  No. 3, the Governor has the power

1 to make that generational opportunity a  
2 reality. I just want to highlight, I actually  
3 don't understand my friends on the other side  
4 to have said otherwise during this morning's  
5 proceedings. I think everyone agrees, the  
6 Governor has the power to do that.

7                   He can require a modest  
8 modification to the minority owners' proposal  
9 to use the first two years of the three-year  
10 pre-implementation period to consider this  
11 proven technology the minority owners never  
12 adequately studied as part of this broken  
13 process.

14                   Now, I want to go over those  
15 three points in a lot more detail, but I also  
16 want to make sure I answer all of your  
17 questions. So I want to invite you to please  
18 interrupt me at any point if you have questions  
19 about anything I've said.

20                   The first big point, the minority  
21 owners' proposal is really disappointing. It  
22 scores poorly on all the public interest  
23 factors under the 1991 Agreement. Again,  
24 that's \$3.7 million at a minimum on an  
25 annualized basis to do something that's

1 relatively experimental. To our knowledge, no  
2 other fish and wildlife mitigation project has  
3 tapped into Municipal drinking water  
4 infrastructure in the way that is proposed  
5 here. And it does that in order to decrease  
6 power production by about 10 percent at a time  
7 when we all know the Railbelt needs as much  
8 power as it can get during this critical time.

9                   It does nothing to help fish or  
10 wildlife on the entire last mile of the river,  
11 the entire lake, or all of the tributaries to  
12 the lake. It will keep blocking fish and  
13 continue to disappoint subsistence and sport  
14 fishermen, as well as the hunters whose prey  
15 depends on the marine and anadromous fish run  
16 to bring back.

17                   It's an unpopular proposal. It  
18 was opposed by most public commenters. And it  
19 emerged from a broken process in which the  
20 Municipality of Anchorage, the majority owner  
21 of this project and the local government  
22 responsible for protecting the public interest,  
23 was sidelined.

24                   That's the first point.

25                   The second point, the Governor

1 doesn't need to settle for that disappointing  
2 proposal because pump storage hydro beats it on  
3 every metric. As the Governor already knows,  
4 because he's been proposing pump storage hydro  
5 since at least 2020, pump storage hydro is a  
6 simple and proven technology. When the wind is  
7 blowing and the sun is shining and we're  
8 producing more of that renewable energy than  
9 can be reliably consumed elsewhere and  
10 otherwise go to waste, you can pump that water  
11 up from the Knik tailrace impoundment to the  
12 Eklutna Lake through the existing  
13 infrastructure. All we have to do is change  
14 those turbines to make them bidirectional.  
15 Then we can store that energy for later usage.

16                   Then when the sun isn't shining,  
17 the wind isn't blowing, or there's an energy  
18 crunch like there was last winter, you reverse  
19 the flow and you let that water come back down,  
20 as we always have, to produce reliable,  
21 low-cost, dispatchable energy.

22                   And now the key point there is  
23 that there's now more water in the lake for  
24 everyone for all uses. It cracks that problem,  
25 and we can increase total power production,

1 increase the supply of water for Anchorage, and  
2 re-water the whole river so the fish come back.  
3 That's a win, win, win.

4 It's proven technology at work in  
5 43 states in the United States as of 2019.  
6 There's 67 more pump storage hydro projects in  
7 the pipeline throughout the United States.  
8 Again, that's as of 2019. There's for sure  
9 more now.

10 This proposal keeps costs low by  
11 using existing infrastructure, including the  
12 existing dam and the existing tunnels. We need  
13 to swap out those turbines for bidirectional  
14 turbines.

15 By the way, those turbines get  
16 swapped out periodically anyway because of  
17 normal wear and tear. I don't think anyone  
18 thinks that replacing turbines creates a new  
19 project. I generally don't understand that  
20 argument. And it keeps the cost low.

21 By the way, there's billions of  
22 dollars in Federal funds that are available for  
23 projects just like this, as last week's  
24 announcements of Federal grants in sort of  
25 related areas makes clear.

1                   It's a popular proposal. It  
2 achieved unanimous support of all elements of  
3 the Municipality of Anchorage, including the  
4 mayor, all of the Assembly members, and  
5 importantly, the Native Village of Eklutna in a  
6 historic joint resolution just last week.

7                   Again, this is a win, win, win,  
8 for fish and for power, and for the public  
9 interest.

10                  Finally, the Governor has the  
11 power to make this generational opportunity a  
12 reality. I think everyone at this table agrees  
13 that a final fish and wildlife mitigation plan  
14 can include flexibility to consider additional  
15 alternatives and then implement that  
16 flexibility during the existence of a final  
17 plan.

18                  That's what a reopener is.  
19 They've proposed several that are, in our view,  
20 too narrow and kick in too late. We think that  
21 the proven technology of pump storage hydro is  
22 sufficiently promising that it makes all the  
23 sense in the world for -- just to have a modest  
24 modification to their proposed program.

25                  Use those first two years in the

1 pre-implementation period to study this proven  
2 technology. Finally, like, adequately study it  
3 in this process, which really never happened,  
4 to make sure that we're maximizing the public  
5 interest here for the generations to come.

6 We think that the public interest  
7 on all of those factors is just too important  
8 to defer for the long run through the 200  
9 reopeners that exist.

10 In closing, the minority owners'  
11 proposal is disappointing. A better proposal  
12 is on the table by making a modest  
13 modification. And the Governor has the  
14 undisputed power to do that. His job under the  
15 agreement is to reconcile the proposals and to  
16 achieve a win, win, win for increased power  
17 production and increased water for fish and  
18 wildlife.

19 Thank you, and I'd love to  
20 address all of your questions.

21 MS. BYLSMA: Sure. Thank you.

22 So one of them is timing. I  
23 mean, this was just brought forth in the  
24 Assembly work session on August 23rd and  
25 approved via the joint resolution with Native

1 Village of Eklutna on the 5th.

2                   Why was it not raised earlier or  
3 raised more strongly earlier in the process?

4                   MR. BUSA: So I think I've got  
5 several lines of response, and I want to make  
6 sure I get them all out.

7                   First, I think the broken process  
8 does come into play here. As has been  
9 discussed, the Municipality didn't have its  
10 vote on the operating committee during all of  
11 the relevant time period here. And my friends  
12 on the other side say it doesn't matter, we  
13 still operate it by consensus.

14                   I think everyone understands in  
15 their daily life that the formal rules actually  
16 have a huge impact on how the informal process  
17 plays out.

18                   And so if you know going in that,  
19 you know, so and so, their view, won't actually  
20 matter all that much because they've got no  
21 vote, it'll give you a certain incentive not to  
22 necessarily take them all that seriously.

23                   Secondly, even separate from the  
24 formal vote, sort of power, I think everyone  
25 should have recognized very early on that the

1 proposed final program here would have required  
2 Municipality buy-in for successful  
3 implementation. But I think that was sort of  
4 swept under the rug in an attempt to, you know,  
5 sort of strongarm the Municipality. I don't  
6 think that's a healthy way of running this  
7 process.

8 Now I hear from my friends on the  
9 other side that they think there's an Alaska  
10 statute that would let them, I suppose, bring  
11 suit against the Municipality, sort of an  
12 experimental lawsuit. I'm not sure I know of  
13 any precedent directly on point that would  
14 allow them to do that. I think there's going  
15 to be a high degree of litigation risk. Again,  
16 it's the first time I'm hearing the proposal  
17 personally. And so I apologize, I don't have,  
18 like, a fully worked through thought process.

19 I do know that a separate Alaska  
20 statute says that the Assembly -- that the  
21 Municipality's legislative arm -- gets to make  
22 provision for disposition of real interests in  
23 property. I'm not sure why they're so  
24 confident that a different Alaska statute  
25 obviously overrides that separate Alaska

1       statute. I think there could be a lot of  
2       litigation risk there. I think it could be  
3       messy and expensive and take time.

4                   I think it's a problem that  
5       results from the broken process here. I think  
6       if we these -- if the Municipality's  
7       understanding of the public interest had been  
8       taken seriously earlier on, we could have  
9       avoided this.

10                  But I think the Governor can  
11       avoid that problem here. Again, he can  
12       reconcile the various proposals. And it's  
13       within the Governor's power to require to take  
14       the first two years of that pre-implementation  
15       period just to study this very promising  
16       proposal.

17                  Now, I understand my friends on  
18       the other side have a slide where they say, you  
19       know, we don't think this would pan out,  
20       technically. Well, my friend, Mr. Corsentino,  
21       the very distinguished director, new director  
22       of Anchorage Hydropower, disagrees. And I  
23       think that's worthy of study. I think that's  
24       worthy of taking, you know, that first bit of  
25       time to really work through it to maximize the

1 public interest.

2                   This is a tough technology that  
3 works in so many other areas; it's not entirely  
4 clear to me why it wouldn't work here. Again,  
5 using existing infrastructure; the existing  
6 dam; the existing tunnels.

7                   MR. HICKEY: Attorney Glass  
8 indicated that pumped hydro might require FERC  
9 approval rather than this 1991 Agreement  
10 approval. What are your thoughts on that?

11                  MR. BUSA: I disagree. I'm not  
12 sure why they think it would require FERC  
13 approval. As I understand it, the thinking is,  
14 well, that's a different project, this doesn't  
15 count as a program under the 1991 Agreement  
16 and, therefore, it would just have to go  
17 through FERC as a matter of course.

18                  But, I mean, I think if you look  
19 at every alternative they studied in the course  
20 of developing this proposal, you see lots of  
21 things that -- you know, you can scale it up or  
22 down. You can do more or less. And all of  
23 those options can involve constructing lots of  
24 things at different locations or not. It can  
25 be very technologically complicated or very

1 simple. But if they're all aiming to re-water  
2 the river and bring back the fish, I think  
3 they're clearly within the program.

4 Again, the proposal from a  
5 technical point of view really is to swap out  
6 those unidirectional turbines for bidirectional  
7 turbines and swap out the controls.

8 To be clear, those controls  
9 actually need to be swapped out anyway pretty  
10 soon, is my understanding, from a technical  
11 point of view. So, you're really just talking  
12 about new turbines, and I didn't hear one  
13 reason from my friends on the other side as to  
14 why changing turbines would count as a new  
15 project.

16 Again, to my understanding, they  
17 actually swap out those turbines from time to  
18 time due to normal wear and tear. We could  
19 just buy different types of turbines that are  
20 bidirectional.

21 On the other side of the page --  
22 on the other side of the ledger, I hear in  
23 their preferred proposal they would like to dig  
24 a hole, dig into municipal water  
25 infrastructure, build a new facility there, a

1 new location that's actually not at the dam or  
2 inside an existing location. I think that's  
3 all within the '91 Agreement.

4 To be clear, I just think that  
5 our proposal is obviously with the '91  
6 Agreement if we're going to use the same, you  
7 know, pump storage house with different  
8 turbines and, like, new controls, which, by the  
9 way, have to be updated anyway.

10 MS. BYLSMA: So, in your brief,  
11 you acknowledge that alternative may -- a  
12 better alternative may not be found, even after  
13 two years.

14 Is there a reason that the  
15 approval and permitting shouldn't advance on  
16 the current schedule for the portal valve  
17 alternative so as to not lose valuable time  
18 protecting, mitigating, and enhancing fish and  
19 wildlife resources?

20 MR. BUSA: We don't want to lose  
21 any valuable time, but I've also not heard my  
22 friends on the other side say that all three  
23 years would be necessary for permitting,  
24 that -- their preferred project. I think that  
25 you can take a staged approach here.

1                   It doesn't make a lot of sense  
2 just in terms of cost savings. I think you can  
3 immediately do a technical feasibility analysis  
4 of this proven technology and get to a pretty  
5 solid understanding relatively quickly within  
6 that two-year time frame of how it's going to  
7 turn out.

8                   Once you have that information in  
9 hand, you can make a reasoned determination of  
10 how to proceed with the other permitting  
11 decisions.

12                   MS. BYLSMA: Thank you.

13                   What, if any, impacts does the  
14 pump storage hydro have on the Eklutna tailrace  
15 fishery?

16                   MR. BUSA: I'm sorry, that's a  
17 question I haven't thought about until today.  
18 I think that's something that should be studied  
19 during the first two years.

20                   Mark, what's your thought?

21                   MR. CORSENTINO: No, I mean,  
22 that's the whole point. I mean, even the pumps  
23 storage are a concept. Rig has looked at that,  
24 but that was a concept, and there's at least a  
25 dozen variations of that that can be done. And

1 they would include increasing the impoundment  
2 down there to close the bar, increasing it  
3 bigger. Putting it in a different place where  
4 you can get the watering so it -- to your  
5 point, is that the tidal influence? Well, not  
6 all the time during all the years.

7 The whole point of this is that,  
8 yes, we want to take a little bit of time. You  
9 know, the two years is just to address all  
10 concerns and comments, if it's feasible,  
11 within, say, the first six months. On that  
12 injury side, that's pretty swift and easy. But  
13 you want to look at all alternatives. You want  
14 to collaborate. Otherwise, you're missing on  
15 the key points.

16 Obviously, no one liked the  
17 Governor's proposal in 2020 because it didn't  
18 go anywhere, unfortunately, because of \$4.7  
19 billion.

20 This proposal, there are various  
21 ways to stick. But even he acknowledged back  
22 then, the proposal is scalable, right? Start  
23 small in expense -- and by the way, with all  
24 the VRE penetration with solar wind because  
25 it's being pushed on the -- all these companies

1 are being pushed to do VREs. That stuff is  
2 intermittent; it's unreliable; it's not firm.  
3 This makes it firm and beneficial.

4 By the way, you're probably going  
5 to have to do pump storage no matter what.  
6 That's why I would take advantage in lieu of  
7 FERC process now, because you'll save another  
8 \$8 million because you don't have to spend \$8  
9 million on another FERC process down the road.  
10 This is a smart move.

19 I mean, Dixon Diversion, it's a  
20 great project. How they -- what are they doing  
21 there? Increasing the capacity.

22 Eklutna Lake right now doesn't  
23 produce the maximum at capacity of water even  
24 today. It doesn't have enough water. It's a  
25 40 megawatt plant.

1                   If you pump that thing at 40  
2 megawatts every day of the year, you get 354  
3 gigawatt hours per year instead of 150 or so,  
4 whatever you get now. It just doesn't have  
5 enough water. You don't run that thing at 40  
6 megawatts. You run that at 25 wattage on an  
7 average per the year. That's the whole concept  
8 of Bradley Lake, same thing, you don't run that  
9 thing at 120 gigawatts every day of the year.  
10 You run a portion of that. You're getting  
11 water and there's two you can do just then.

12                   Stetson Creek was the same thing  
13 that at Bradley Lake -- Cooper Lake. The whole  
14 point is getting water out of there to give you  
15 better product, bring the renaissance of hydro  
16 that you need, and make it compatible with fish  
17 and wildlife. That's the whole concept here.  
18 Look, this is the smart move with VRE. You  
19 want to do this. And it actually gives the  
20 stigma where -- the nasty stigma of hydro is  
21 that it's bad for fish and wildlife. Fix that,  
22 and you will want to do that, though.

23                   MS. BYLSMA: So your -- the pump  
24 storage concept as -- you know, as presented --  
25 and I'll admit that it's new to me, too -- but

1 it requires some additional capacity brought on  
2 through solar and wind; is that correct?

3 MR. CORSENTINO: Or you can use  
4 existing solar. So it would be better to do  
5 new, especially if you can get it economically.

6 Yes, to your point, you're going  
7 to have to use power to supply power down the  
8 road. But the whole concept is right now, if  
9 you're going to have natural gas issues and  
10 natural gas cost increases, your power for  
11 thermal is going to increase those costs.

12 When is solar not going to become  
13 competitive? I mean, you've even got articles  
14 where it shows that, you know, the solar farm  
15 in Houston is less expensive than the thermal  
16 generation now. So if you can pump up at a  
17 lower rate than you use thermal, then you're  
18 money ahead. But you also want to drive that  
19 cost down.

20 You're right. If you can get  
21 inexpensive wind to solar online -- and by the  
22 way, you've got so much wind and solar out  
23 there that's not being used all the time  
24 because you've already got other units on line  
25 on the thermal side, so it's going to waste.

1 This actually benefits and enhances the VRE.

2 So, yes, you will need that, and  
3 it needs to be cost competitive. I'd agree.

4 That's the whole concept of looking at this.

5 MR. BUSA: And I just want to add  
6 onto that. My understanding is that, like,  
7 additional wind and solar is coming regardless.  
8 Like, Chugach and MEA are committed to that  
9 anyway, and so this just works with that. It  
10 facilitates it so it can work as efficiently as  
11 possible and at a time of like, you know, big  
12 energy problem in the entire Railbelt.

13 MR. HICKEY: Is there a -- a few  
14 questions. Have you guys look at the costs  
15 associated with this type of project? No. 1.

16 And then No. 2, is there a reason  
17 why there should be a two-year wait on  
18 implementing the proposed draft plan because  
19 this proposal may not pan out in the end  
20 anyway, and we just lost two years of potential  
21 restoration of fish habitat.

22 Can the two go on the same time  
23 frame together rather than this two-year wait  
24 versus let's do everything all at one time?

25 MR. BUSA: Yeah, so I think -- I

1 just want to reiterate something that I hope I  
2 made clear in my first answer, but I guess I  
3 didn't. I apologize for that. That's on me.

4 We think that the permitting can  
5 happen sort of smartly on two tracks in a way  
6 that minimizes overall costs while still  
7 allowing for further study.

8 So, for example, the further  
9 study of technical feasibility of pump storage  
10 hydro we don't think would take, you know, two  
11 full years. We think we're going to get a  
12 pretty good sense, relatively early on in that  
13 period of how that's going to go. Moreover, I  
14 don't think the other side has said that, you  
15 know, all three years are necessary for  
16 permitting. So I think you can shift the  
17 permitting applications back a bit to allow for  
18 technical feasibility on the front end. But I  
19 think you can make a smart choice within that  
20 two-year period to go down the road on starting  
21 the job on permitting the existing proposal  
22 while still going down the road of, you know,  
23 proving out the other proposal.

24 You just want to be careful on  
25 how you're balancing that to minimize your

1 costs overall. But you'd want to start well in  
2 advance, I agree.

3 MR. CORSENTINO: And the cost,  
4 though, you know, we'd want to go further in  
5 depth, that's the whole point, but it's going  
6 to be part of our option as far as initial  
7 cost.

8 MR. HICKEY: I'm sorry, I  
9 couldn't hear what you said.

10 MR. CORSENTINO: The initial cost  
11 would be on part of the infrastructure costs of  
12 the option, just somewhere between \$5 and 10  
13 million. Those turbines, to replace not just  
14 themselves, are going to be in that same  
15 bandwidth, but that's going to be firmed up the  
16 nest. And then the advantage is you don't lose  
17 from power down the road. You actually  
18 maintain, if not potentially improve it down  
19 the road.

20 MR. HICKEY: Thank you.

21 MS. BYLSMA: So kind of  
22 transitioning to maybe more, not just about the  
23 specific option, but kind of just a little  
24 broader, is: Does the Municipality believe  
25 that re-watering the entire river and providing

1 for fish passage, is that the only means of  
2 protecting, mitigating, and enhancing the fish  
3 and wildlife habitat?

4 MR. BUSA: No. I mean, I think  
5 people have come forward with lots of means of  
6 mitigation. And mitigation is a spectrum. You  
7 know, I think we're trying to be reasonable  
8 here in recognizing that mitigation is a  
9 spectrum. I think the key part, though, is  
10 that, like, everyone ought to recognize that  
11 re-watering the whole river and fighting for  
12 fish passage is just obviously way better on  
13 that factor than not doing it. Right?

14 And so if you can do that while  
15 also improving the other public interest  
16 factors at a reasonable, prudent cost, it just  
17 makes a lot of sense to do.

18 I think that that's the point of  
19 the '91 Agreement, is as the Governor sort of  
20 made that kind of reconciliation decision,  
21 really tried to maximize the public benefit on  
22 all of these dimensions.

23 MS. BYLSMA: Is there any  
24 alternative on the table currently short of,  
25 you know, what you've proposed with your pumped

1 storage hydro that you feel you could support  
2 in whole or in part?

3 MR. BUSA: I want to highlight  
4 that the Native Village of Eklutna has also  
5 proposed -- so I want to highlight, first of  
6 all, that sort of in a historic joint  
7 resolution last week, the Native Village of  
8 Eklutna and the Anchorage Assembly unanimously  
9 all supported pursuing pump storage hydro, so I  
10 think that's why it's been the focus of our  
11 presentation here.

12 But I also want to be clear that  
13 the Native Village of Eklutna has also put  
14 forward a separate proposal to pump water from  
15 Eklutna Lake into the pond that's sort of right  
16 behind the dam and re-water the full river  
17 through the existing gate in that dam, and we  
18 think that deserves further study.

19 MS. BYLSMA: So can you talk a  
20 little bit about your perspective on the  
21 reopeners? You know, if the position is that  
22 reopeners are permitted under the 1991  
23 Agreement and the final program, are those  
24 something that from your view need to be  
25 included in the final program? Can the parties

1 just get together and agree on reopening at a  
2 point of time? What's your thought process on  
3 that?

4 MR. BUSA: We think that under  
5 Section 7 of the agreement, that the parties,  
6 if they were to ever propose significantly  
7 altering the project, that would sort of  
8 restart an automatic reopening proceeding.  
9 Right? Because you have to go through this  
10 process of alternative studies and proposing to  
11 the Governor for the Governor to choose among  
12 them.

13 We think that basically just  
14 looks a lot like sort of the far too limited  
15 reopeners they've proposed, and also looks like  
16 the flexibility we have called for in the first  
17 two years of this program.

18 MS. BYLSMA: So, also in your  
19 brief in the Municipality, you stated the  
20 Municipal code requiring the final proposed  
21 Fish and Wildlife program was subject to  
22 Assembly approval prior to submission to the  
23 Governor.

24 When was this code passed? And  
25 do you believe that the Municipal code

1       supersedes the terms outlined in the 1991  
2       Agreement which, according to your brief, was a  
3       Federal contract authorized by Federal statute?

4                    MR. BUSA: I apologize. I don't  
5       recall immediately the specific date on which  
6       that requirement was approved by the Assembly.  
7       I know -- I hope I know before the submission  
8       of the final program to the Governor, I believe  
9       almost certainly that was true.

10                  MR. HICKEY: It was certainly  
11       after the 1991 Agreement, right?

12                  MR. BUSA: No, no, so I want to  
13       get to that because I think that's the big  
14       question, right? Like, no, we're not taking  
15       the position that any ordinance can supersede  
16       the 1991 Agreement, but obviously the Assembly  
17       is in charge of setting the public policy  
18       direction of the Municipality and, to that  
19       extent, you know, insure that the  
20       Municipality's representative on the owner's  
21       committee is sort of fighting for the public  
22       interest and to maximize all those public  
23       interest benefits; not just fish passage and  
24       then fish, but also, you know, improving power  
25       production and improving all these beneficial

1 uses, like fishing on the lake.

2 So, I think our simple point is  
3 that the Municipality has that power over the  
4 public policy of the Municipality, and I think  
5 this also ties back into the sort of broken  
6 process here where the Municipality's  
7 understanding of the public interest, a very  
8 reasonable -- to understand the public  
9 interest, again, the understanding is that any  
10 proposal that actually brings the fish back and  
11 re-waters the whole river is clearly better  
12 than any proposal that does not on that one  
13 public interest factor. And if you can also  
14 boost the other public interest factors at the  
15 same time, that's great.

16 So, the Municipality, by being  
17 cut off, by having lost its vote, being cut off  
18 from this process, I think that really was a  
19 disservice to how this process could have and  
20 should have played out. Again, we want to be  
21 cooperative and work cooperatively with the  
22 other owners here.

23 I would just highlight, though,  
24 that now that we have Mr. Corsentino as head of  
25 Anchorage Hydropower, we have sought to get our

1 voting rights back on the owners' committee and  
2 proceeding before the RCA, and I think, pretty  
3 remarkably, the minority owners here have  
4 strenuously objected to doing that and to doing  
5 it on an expeditious timeline.

6 They actually, I think, all but  
7 admit that Mr. Corsentino is more than capable  
8 of operating Anchorage Hydro prudently on that  
9 committee. But they're still making sure we  
10 don't have our vote on that owners' committee.  
11 And that's about the '91 Agreement, but it's  
12 also about so much more. We're the majority  
13 owner of that project. And there are decisions  
14 that get made all the time, and we just think  
15 that's indicative of the program process here,  
16 as well.

17 MS. BYLSMA: And just a follow-up  
18 question on your description of what you've  
19 described as a broken process.

20 So, the project owners have said  
21 that the vote was surrendered; you have said  
22 that you lost your vote. Did the Municipality  
23 feel it was a broken process when this was  
24 ordered and agreed to in 2020?

25 MR. BUSA: So I think when we

1 agreed to voluntarily surrender that vote in  
2 2020 in order to maintain our majority  
3 ownership, I think, obviously, going forward,  
4 our hope would be that we would retain --  
5 reclaim that vote expeditiously and then  
6 continue to work cooperatively with the other  
7 owners going forward.

8                   Obviously, if the Municipality  
9 had gotten its vote back earlier, that would  
10 have been better for us and for everyone.

11                   I also just have to point out,  
12 though, that we've moved expeditiously, reclaim  
13 our vote, and no one objects to  
14 Mr. Corsentino's engineering skills or says  
15 that he does not have the skills to run that  
16 utility.

17                   But, we're still being obstructed  
18 in our attempt to get that vote back. I think  
19 that just speaks to the broken process here.

20                   MR. HICKEY: And just following  
21 up on that line of questioning.

22                   If the Municipality wanted to  
23 maintain a vote, they could have done that when  
24 they negotiated the loss of the vote back in  
25 2020, couldn't they have?

1                   MR. BUSA: I apologize. I didn't  
2 mean to cut you off.

3                   MR. HICKEY: I just want to make  
4 sure I understand it, because it seems to me  
5 that the record is pretty clear that the  
6 Municipality willingly gave up its vote.  
7 There's no dispute about that, right?

8                   MR. BUSA: No.

9                   MR. HICKEY: So there was a  
10 willing agreement to eliminate the vote back in  
11 2020. And then what we've heard today has been  
12 that, albeit it wasn't the best of all worlds,  
13 the Municipality was part of the process going  
14 from 2020 forward in discussing these different  
15 alternatives and options to come up with the  
16 final program.

17                   And it just seems disingenuous to  
18 me to say that the process was broken when the  
19 Municipality controlled the process at that  
20 point.

21                   MR. BUSA: I think there's two  
22 points I want to make.

23                   First is, yes, there were lawyers  
24 from the Municipality in the room during those  
25 discussions, but I think we need to understand

1 that there are multiple elements of municipal  
2 government. I think it's inaccurate to say  
3 that the Municipality was on board with  
4 everything that was going on during the study  
5 period here.

6 I think the Anchorage Assembly  
7 has been very clear in enacting and passing  
8 ordinances as far back as 2017, making its view  
9 very clear about that, you know, re-watering  
10 the river and providing for fish passage to  
11 maximize that element with the public benefit,  
12 consistent with all the other factors, would be  
13 the goal here.

14 And I think that the owners'  
15 committee has not taken that view seriously  
16 during all of that time.

17 Now, obviously, if we had been  
18 able to regain our vote earlier, that would  
19 have been better. That's just absolutely true.

20 I don't think that we should sort  
21 of focus on that process point to deprive the  
22 public of the maximum public benefit we can  
23 possibly give them at this point going forward.

24 MR. HICKEY: Thanks.

25 MS. BYLSMA: Just one final

1 question.

2                   Were there any portions of your  
3 recommendations that were incorporated into the  
4 final proposed program?

5                   MR. BUSA: I'm sorry, maybe I'm  
6 misunderstanding the question, or I'm just --  
7 possibly I just don't know the answer.

8                   MS. BYLSMA: Yeah. From  
9 alternatives, you know, presented earlier in  
10 the process and, you know, then the  
11 alternatives were considered and, you know, the  
12 project owners have said that then there was  
13 this negotiation to incorporate different  
14 elements into it. Were any of the things that  
15 the Municipality suggested incorporated into  
16 the final proposed program?

17                   MR. BUSA: Not that I'm aware of.

18                   MS. BYLSMA: Okay. I don't have  
19 any other questions.

20                   Thank you, Attorney Busa and  
21 Director Corsentino.

22                   MR. McDERMOTT: Just a reminder,  
23 we have one person on the phone, and I'm doing  
24 a lot of texting to make sure she --

25                   MS. BYLSMA: Hears?

1                   MR. McDERMOTT: Yes. So just be  
2 aware of when you're speaking that she needs to  
3 hear, as well.

4                   Thank you.

5                   MS. BYLSMA: Yeah, thank you.

6                   All right. Next, then, we're  
7 going to move on from the project owners.

8                   And Fish and Wildlife Service.

9                   MR. COOPER: Thank you.

10                  Good afternoon. My name is Doug  
11 Cooper. For those who don't know me, I  
12 represent U.S Fish and Wildlife Service.  
13 There, I supervise our ecological services  
14 regulatory program out of our Anchorage field  
15 office. So my office has been the Fish and  
16 Wildlife Services primary technical review and  
17 subject-matter expertise on the Eklutna  
18 hydropower project.

19                  I'm here today representing our  
20 Regional Director Sara Boario.

21                  So Regional Director Boario, on  
22 her behalf, I thank everyone for the  
23 opportunity here today to discuss the  
24 Governor's important decision.

25                  We recognize that there are a lot

1 of parties to this agreement, and we've  
2 participated in this process. Sara did ask me  
3 to convey our appreciation to the Governor for  
4 this opportunity to work together in a  
5 collaborative, solution-based process.

6 And I do want to open with -- in  
7 acknowledgment that the Native Village of  
8 Eklutna was not part of the 1991 Agreement. We  
9 believe they should have been a party to the  
10 agreement, and that was -- their exclusion was  
11 a gross oversight. None of the individuals in  
12 this room were part of that process.

13 So, just acknowledging their lack  
14 of a formal role in this process.

15 I think throughout the process,  
16 the parties of the agreement have recognized  
17 the profound impact that the development from  
18 gravel mining to hydropower has had on the  
19 Native Village of Eklutna, or NVE. And under  
20 the Department of Interior, Secretary of  
21 Interior Deb Haaland has made it clear that our  
22 department prioritizes and plays a central role  
23 in how the United States stewards its public  
24 lands, increases environmental protections,  
25 pursues environmental justice, and honors our

1 Nation-to-Nation relationship with tribes.

2                   NVE has played an important role  
3 throughout the process in participating in the  
4 development of project study plans and  
5 developing alternatives.

6                   We do definitely support the  
7 Governor's consideration of NVE's comments in  
8 weighing the eight factors that factor into his  
9 decision, and we do very much appreciate just  
10 the opportunity that the Governor and all  
11 parties to the agreement have made for NVE to  
12 have a voice in this process.

13                   So our Fish and Wildlife Service  
14 agency interest in this process is specific to  
15 the development and implementation of the  
16 measures to protect, mitigate for and enhance  
17 the damage to and preservation of the other  
18 fish, wildlife, and other aspects of the  
19 environmental quality.

20                   So we -- Fish and Wildlife  
21 Service and NVE -- have a shared vision and a  
22 mission to support the eventual return of the  
23 historical sockeye salmon run that was  
24 ecologically and culturally important to both  
25 the people of Alaska and specifically the

1 people of NVE.

2 So salmon are really a life blood  
3 of Alaska. They feed people, fuel the economy,  
4 shape cultures and the ways of life, and  
5 support productive and resilient ecosystems.

6 We think this overall effort is an opportunity  
7 to protect, mitigate, and enhance or develop  
8 those PME measures: Protect, Mitigate, and  
9 Enhance.

10 The Eklutna salmon contribute to  
11 the larger shared vision of salmon conservation  
12 throughout the state of Alaska.

13 As we've detailed in our several  
14 comment letters regarding the Fish and Wildlife  
15 Program, we believe the intent behind the 1991  
16 Agreement did consider ecological connectivity  
17 and fish passage. Fish passage is an important  
18 component of protecting, mitigating, and  
19 enhancing fish habitat, pursuant to the  
20 agreement which was then developed in response  
21 to the concerns that were identified over the  
22 loss of a historical sockeye salmon run.

23 And that was stated in the 1992  
24 divesture summary report where it was stated  
25 that during reviews of the legislative

1 proposal, loss of sockeye salmon run that once  
2 spawned in the Eklutna Lake was identified.  
3 The report goes on to state that this specific  
4 problem and the desires of fish and wildlife  
5 agencies to provide appropriate consideration  
6 to fish and wildlife resources over a long run  
7 led to the August 7th, 1991, agreement.

8 And then, in summary, the intent  
9 of the sale -- in summarizing the intent of the  
10 sale, the report does say that, given the  
11 nature of the projects and the river basins  
12 affected, there's good reason to believe that  
13 the proposed arrangements will work at least as  
14 well as Federal regulation for the intended  
15 purpose of mitigation and enhancement of  
16 affected fish and wildlife resources.

17 So, as I stated, we do believe  
18 fish passage was part of the intent behind the  
19 agreement. The agreement itself does not speak  
20 to fish passage as a specific measure that  
21 needs to be obtained or achieved; however,  
22 given that the loss of historical management of  
23 sockeye salmon is what prompted the development  
24 of the agreement that lakes are an important  
25 part of sockeye salmon spawning and rearing,

1 that there are no other lakes connected to the  
2 river to support that spawning and rearing  
3 habitat, and that the Eklutna Lake still does  
4 support kokanee, which are landlocked sockeye  
5 salmon. The Service does believe, then, the  
6 intention of the '91 Agreement was to develop a  
7 program that connects the river and the lake.

8 So we're not -- the Service isn't  
9 here today to advocate for a specific  
10 alternative or a particular alternative, but  
11 we're really here just to emphasize our  
12 long-term goal and vision for all the parties  
13 here today to intentionally, creatively, and  
14 urgently pursue full connectivity in the years  
15 ahead.

16 We hope that we should not wait  
17 another 30 years to achieve that fish passage  
18 and take action towards that goal. And we  
19 believe this vision is consistent with the 1991  
20 Agreement.

21 All that being said, we do  
22 recognize that there are infrastructure and  
23 financial limitations that present current  
24 challenges to immediately achieving that  
25 ecological connectivity and fish passage. So

1 the program -- the proposed program that's  
2 before the Governor today does not meet -- does  
3 not immediately meet the Service's goals of  
4 ecological connectivity. There is one mile of  
5 river remaining de-watered, and we don't  
6 believe the proposed flows will adequately  
7 fully re-create spawning an off-channel habit  
8 in quantities comparable to what was lost.

9                   But, we do believe the program,  
10 if coupled with firm owner commitments and  
11 continuing opportunities to reconnect the river  
12 and reestablish fish passage in the long term,  
13 would be consistent with the negotiated  
14 alternative for a phased approach.

15                   We do -- as the owners suggested,  
16 we do believe all parties did in good faith  
17 negotiate measures for inclusion in the fish  
18 passage -- or, sorry, fish and wildlife  
19 program. And we're still here prepared to work  
20 collaboratively with all parties here today so  
21 the owners, the Municipality, the Native  
22 Village of Eklutna, and other agencies to  
23 achieve these long-term goals and missions that  
24 can support each of the parties' goals and  
25 vision for the project.

1 So, in summary, we want to work  
2 together to implement protection, mitigation,  
3 and enhancement measures with the long-term  
4 goal of ecological connectivity, for there to  
5 be as much engagement and support as possible  
6 for finding long-term solutions to reconnect  
7 the river, and the Service's goal for the  
8 future of the project is full ecosystem  
9 connectivity.

10 Our vision is an eventual return  
11 of the sockeye salmon run that is ecologically  
12 and culturally important to the people of  
13 Alaska and the Native Village of Eklutna. And  
14 our hope is that it doesn't take an additional  
15 30 years to achieve. We think this goal is  
16 consistent with the agreement's requirements to  
17 protect, mitigate damages to, and enhance fish  
18 and wildlife resources, and we hope that we can  
19 continue to work together for those long-term  
20 ecological goals.

23 MS. BYLSMA: Thank you. I want  
24 to go back to something you said, talking  
25 about, you know, negotiating in good faith.

1 MR. COOPER: Sure.

2 MS. BYLSMA: Were any of the  
3 alternatives or recommendations that the Fish  
4 and Wildlife Service suggested incorporated  
5 into the proposed final program? And can you  
6 talk about that a little bit?

7 MR. COOPER: Sure. So the -- the  
8 negotiation process had a number of steps. So  
9 we did -- the owners group did ask for all  
10 parties to submit their preferred alternatives.  
11 Those were part of the alternatives development  
12 and alternatives analysis. Through that  
13 process, we submitted alternatives that we felt  
14 would achieve those habitat creation and  
15 restoration opportunities to support salmon  
16 rearing throughout the river system. We did  
17 prefer alternatives that would water the  
18 entirety of the river, including connectivity  
19 to the dam.

20 Through the negotiation process,  
21 we recognized that the infrastructure and  
22 financial limitations may preclude achieving  
23 that goal in the very near term. So the final  
24 program included those limited reopeners.

25 We wanted some form of phased

1 approach and adaptive management that would  
2 allow for incorporation of additional measures  
3 over time, and we've consistently stated that  
4 that ecological connectivity that would include  
5 restoration of sockeye salmon fish passage was  
6 an important part of the long-term vision for  
7 the program, with the recognition that current  
8 limitations may preclude it in the short term.

15 MS. BYLSMA: Any questions?

16 I don't think I have any other  
17 questions for you.

18 MR. COOPER: Great. Thank you.

19 MS. BYLSMA: Thank you.

20 Next, NOAA, for National Marine  
21 Fisheries Service.

22 MR. McDERMOTT: Well, thank you.

23 I think being this far deep into  
24 the process, I might be reiterating a few  
25 comments.

1                   Anyway.

2                   But thank you for providing this  
3 forum for discussion of the proposed program.  
4 We really appreciate it, and to be able to give  
5 you additional information to support the  
6 Governor's decision.

7                   So, as provided in our brief to  
8 the Governor, we focus our response on areas  
9 relevant to our role in the 1991 Agreement  
10 process and our statutory authority.

11                  So those comments were consistent  
12 with our comments from June 21st on the  
13 proposed plan.

14                  So our interests are to restore  
15 habitat functions and values in the Eklutna  
16 River, and we support NVE's interest in  
17 restoring water to the full river and fish to  
18 the watershed. That includes the lake.

19                  While the '91 Agreement does not  
20 speak to fish passage as a requirement, in  
21 review of early correspondence strongly  
22 indicate that fish process was contemplated by  
23 NMFS staff at the time.

24                  Likewise, in consultation with  
25 NVE, we maintain an interest in reestablishing

1 flow to the full length of the river and  
2 returning salmon to the full range of habitat  
3 below and above the dam.

4                   To that end, the limited  
5 reopeners provided -- or they provide an  
6 opportunity to address this interest, similar  
7 to a reservation of authority in the Federal  
8 licensing process.

9                   So as party to the '91 Agreement,  
10 we participated in all stages of  
11 implementation, from onset of process to  
12 finalizing the draft for the Governor's review.

13                   We contributed to the process and  
14 negotiated in good faith to develop the  
15 proposed Fish and Wildlife Program that met  
16 the -- that meets the intent of the agreement.

17                   And based on those discussions,  
18 our review of the proposed program and  
19 consideration of potential alternatives, we  
20 view the proposed program as a framework to  
21 initiate the protection, mitigation, and  
22 enhancement of fish and wildlife resources in  
23 the Eklutna River.

24                   The program -- excuse me.

25                   The program will support habitat

1 restoration initiatives and monitor the  
2 effectiveness of the mitigation. It forms a  
3 technical work group to inform decision-making  
4 and includes provisions to address changing  
5 technology and climate conditions.

6 So, if implemented, the proposed  
7 actions will also provide a foundation for the  
8 next iteration of the mitigation plan.

9 So the program includes a  
10 provision for the owners to conduct a detailed  
11 feasibility study of a new gate of the existing  
12 dam, and this is related to the question of  
13 water at mile -- between the dam and the  
14 portal.

15 If the described criteria within  
16 the plan are met, then the owners will commit  
17 to a capped amount of funds to install the new  
18 gate.

19 In our comments from June, we  
20 recommended a modification to the program to  
21 ensure that the value of the funds are  
22 available for other mitigation actions if the  
23 feasibility study indicates the dam is  
24 insufficiently stable to support the new gate  
25 structure and this action does not proceed.

1                   We also recommended further  
2 analysis for the construction of the pump  
3 station and the alternative to bring water from  
4 the lake past the dam.

5                   Now I lost my place.

6                   Anyway, so we also put that  
7 forward as an alternative to be further  
8 reviewed.

9                   And we reviewed the owners'  
10 response to our comments and understand their  
11 position.

12                   I'll start with that one.

13                   So implementing mitigation  
14 measures at hydropower projects is typically a  
15 multi-year process. We have been supportive of  
16 a phased approach to implementing the  
17 mitigation plan from very early on.

18                   There are actions that should  
19 happen as soon as reasonable, such as adding  
20 water to the river -- that wasn't my 15  
21 minutes -- was the metric system.

22                   MR. HICKEY: It was your  
23 government counterpart.

24                   He just winked. He said you  
25 could use all his remaining time, as well.

1                   MR. McDERMOTT: And that I'll do,  
2 as a good Irishman telling a story.

3                   Oh, my gosh.

4                   All right. So, what do we do?

5 So, there are actions that should happen as  
6 soon as reasonable, such as adding water to the  
7 river, forming the working group, and  
8 initiating the on-the-ground restoration.

9                   At the same time, the parties  
10 could continue evaluating bigger actions for  
11 mitigation that would otherwise take many years  
12 to achieve, well beyond the five years to  
13 implement that are contemplated in the  
14 agreement.

15                   That's all. Thank you.

16                   MS. BYLSMA: Thank you.

17                   So I'll ask you a very similar  
18 question to what I asked Fish and Wildlife  
19 Service. You mentioned the negotiation and the  
20 good faith. Were there any -- you mentioned a  
21 couple of recommendations that you put forward  
22 in your final comments. And were there any  
23 other of your alternative recommendations that  
24 were incorporated into the proposed final  
25 program?

1                   MR. McDERMOTT: So just to  
2 clarify, from the -- from our last comments or  
3 throughout the process?

4                   From our last comments on the  
5 draft, because then the --

6                   MR. HICKEY: No, I think you're  
7 referring to prior to the last comments,  
8 correct?

9                   MS. BYLSMA: Yes.

10                  MR. HICKEY: Yeah, what was --  
11 before your comments on the final program, were  
12 there any recommendations that you made -- that  
13 NOAA made that were included within the owners'  
14 plan? Or if there were other recommendations  
15 that were not included, how did you get to that  
16 point?

17                  MR. McDERMOTT: I think the  
18 answer is similar to Fish and Wildlife Service.  
19 We had a position for -- you know, the bigger  
20 picture, fish passage, et cetera, and so on.  
21 And there were definitely things that were not  
22 incorporated. But there were things that were  
23 very important to us that were.

24                  The reopeners which mimic the  
25 FERC processes for reservation of authority.

1 And in knowing that there were limitations here  
2 that perhaps future technology would address  
3 for fish passage.

4                   And then the second one is, we  
5 know that things are changing. Rain events,  
6 warmer temperatures, et cetera, that we wanted  
7 that addition of how to manage the -- how do we  
8 manage the water that benefits the mitigation  
9 plan? And, of course, other interests, too.

10                  So in that respect, there were  
11 several items that we put forward that they  
12 incorporated through the negotiation that  
13 wasn't originally on the table.

14                  Did that answer your question? I  
15 don't know.

16                  MS. BYLSMA: Yes. Yes, it did.

17                  Well, thank you.

18                  Then I think next we have AEA, if  
19 you had anything that you wanted to present.

20                  MR. THAYER: Yes, just a couple  
21 points, and that is since we -- since this  
22 started -- this process started over four years  
23 ago, AEA has been involved in it, mainly making  
24 sure that the process was followed correctly  
25 and according to the agreement. That was

1 something we had worked out very early on with  
2 the Governor's Office.

3 I do want to comment that I think  
4 everything was done in good faith and it was  
5 open. We were kept abreast. As developments  
6 occurred, we had chances to comment on the  
7 process and saw no fatal flaws in the process  
8 as it was laid out into the 1991 Agreement.

9 There's been a couple of  
10 references to pumped hydro. I will just make  
11 this general statement that AEA in 2019 and  
12 2020 did look at pumped hydro. It had nothing  
13 to do with this agreement. We were looking at  
14 alternatives for hydro opportunities in  
15 Southcentral Alaska. Pumped hydro was one that  
16 we looked at with Eklutna. We also looked at  
17 pumped hydro at Bradley Lake. We also looked  
18 at expansion of Dixon. We've looked at  
19 Susitna-Watana. So, it was a package deal in  
20 the sense this was -- I just want to make sure  
21 there was not a standalone look or an opinion  
22 given on Bradley -- I mean, on Eklutna.

23 We looked at various -- we were  
24 looking at the FERC jurisdiction, the cost,  
25 water quality. Also looking at the

1 feasibility, and especially the geotechnical  
2 work. And I'll just be upfront on that, the  
3 geotechnical work hasn't been done on Eklutna  
4 as much as it's been done with Bradley. There  
5 was an existing dam, as well as Susitna-Watana.

6 So we were looking at it from  
7 different aspects of it, but not from this --  
8 not looking at it from this agreement.

9 So with that, I think that  
10 concludes my comments, unless there's some  
11 questions.

12 MS. BYLSMA: I don't have any  
13 questions for AEA.

14 MR. HICKEY: Nothing from me.

15 MS. BYLSMA: All right. The  
16 Native Village of Eklutna.

17 MR. LEGGETT: Where to begin?  
18 Well, I mean, I think you've heard a lot about  
19 how the process has been, and I just want to  
20 comment from the Native Village of Eklutna's  
21 perspective.

22 We entered these negotiations in  
23 good faith. I think, time and time again,  
24 Eklutna and the Eklutna people have proven that  
25 we are willing to compromise when it comes to

1 the betterment of the Municipality.

2 For example, when Matanuska  
3 Electric was looking to build a new power  
4 plant, Eklutna was approached. Initially,  
5 we're not in the business of selling land these  
6 days. We wanted to lease that power plant to  
7 MEA. We were told that due to the funding  
8 structure, that that would be impossible, given  
9 that, so we agreed that for the betterment of  
10 everybody, we would sell that piece of land.

1                   One of the comments that was  
2 brought up earlier about holding utilities  
3 responsible since 1929, I would just respond to  
4 that by saying we're not trying to hold  
5 utilities responsible back to 1929. And a  
6 clear example of that is when the Native  
7 Village of Eklutna and the community partners  
8 pulled out the old dam at no cost to the  
9 utilities. It was what, 8.5 million -- \$8.5  
10 million project that was done.

11                   Native Village of Eklutna also  
12 feels that working collaboratively and thinking  
13 about doing it in a new way, that we can secure  
14 funding that is out there to achieve our goal  
15 of full restoration for the entire Eklutna  
16 River.

17                   I can tell you, having been in  
18 all the meetings, even though we're not an  
19 official participant and we were reminded of  
20 that on many occasions, that we felt that this  
21 is a deeply flawed process, as it's been laid  
22 out by others in the room here today.

23                   And at the end of the day, what  
24 we're trying to do is put another major  
25 salmon-producing stream into Upper Cook Inlet.

1 We believe that this is not only a benefit to  
2 our community, but specifically, this is a  
3 benefit to over 60 percent of the residents  
4 that live in Southcentral Alaska, and that  
5 having all five species of salmon is critically  
6 important.

7                   This year, if you looked at every  
8 river in Cook Inlet, with the exception of a  
9 few that are stocked, including the Eklutna  
10 tailrace, there have been virtually no  
11 opportunities for -- King Salmon fishing was  
12 shut down for everything. Silver salmon  
13 fishing was open for a very limited time and  
14 was closed down early due to not seeing the  
15 returns.

16                   One of the other things, I think,  
17 that is important that's been brought up is  
18 that, yes, we do want to see something happen  
19 sooner rather than later. But for 95 years,  
20 we've had an impediment on our river, and we  
21 want to see it done right and fully -- or not  
22 fully because we'll probably never get there  
23 fully, but to see a more robust enhancement and  
24 mitigation.

25                   We think, again, also having a

1 thriving, healthy river through the entire  
2 corridor also creates new opportunities for  
3 development in the area: Recreational  
4 opportunities, habitat restoration, and the  
5 list goes on.

6 I also want to point out that in  
7 2020 or 2019, the Alaska Federation of Natives  
8 passed -- 2020, the Alaska Federation of  
9 Natives passed a unanimous resolution  
10 supporting our effort to see full restoration  
11 of the Eklutna River.

12 We found this to be a deeply  
13 flawed process, and the only, I guess, silver  
14 lining that we can see coming out of this is  
15 that some of our other entities that have been  
16 involved can see it as well. Oftentimes we've  
17 been the only ones fighting these sorts of  
18 fights and have been told why something can't  
19 be done.

20 We still do truly believe that we  
21 can work with the utilities to find a solution  
22 that is more equitable and that balances all  
23 eight criteria set out in the 1991 Agreement.

24 I also want to point out that the  
25 architect of the 1991 Agreement, the late

1 Congressman Don Young, had several meetings  
2 with us and was in full support of seeing full  
3 restoration of the Eklutna River, and he found  
4 that it was deeply -- that it was a mistake  
5 that he made in 1991 by not making the Native  
6 Village of Eklutna a full partner in this work,  
7 and that he regretted doing that, and that he  
8 was working to support our efforts on multiple  
9 occasions --

10 MR. MCQUEEN: Including drafting  
11 a letter.

12 MR. LEGGETT: -- including  
13 drafting a letter, which we have submitted on  
14 multiple occasions.

15 And we also have support from the  
16 former Governor of Alaska also to that effect.

17 Any questions?

18 MS. BYLSMA: Thank you.

19 Can you -- you mentioned that you  
20 believe that this is a flawed process. Can you  
21 expand a little bit more on that? Is that  
22 solely to the fact that Native Village of  
23 Eklutna was not a party to the original  
24 agreement, or are there other things that  
25 you're referring to?

1 MR. LEGGETT: No, I don't think  
2 that was -- when I was talking about a flawed  
3 process, I mean, I think in some ways -- yeah,  
4 that was an inherent flaw, but we were willing  
5 to work within that inherent flaw. We were  
6 working for really up until about a year ago,  
7 when it became clear that there was not really  
8 any serious consideration to any of the  
9 alternatives, and that the one put forth by  
10 utilities as their preferred alternative was  
11 the one that they had had in mind the entire  
12 time. And despite various working sessions and  
13 feedback and then technical reviews and all  
14 those things, that that's ultimately what was  
15 submitted.

23 So we felt that our -- our voice  
24 wasn't really heard or the voices of people  
25 throughout, and as you've heard from, you know,

1 the voice of the Municipality, U.S. Fish and  
2 Wildlife, and so on for various reasons. Not  
3 all the same, obviously, but...

4 Yeah, go ahead.

5 MR. McQUEEN: We've been a good  
6 partner with the utilities, and I can think of  
7 going all the way back, not just the power  
8 plant, but years back when they wanted to do a  
9 separate power line that would connect the  
10 utilities to that hydro project, that needed  
11 Eklutna land. The Eklutna people have put lots  
12 of land available for the development of  
13 Anchorage, for the development of Eagle River,  
14 and lots of new clients have come on board as  
15 we developed.

16 And one of the things that we  
17 really wanted to be focused on was not just the  
18 '91 Agreement and electricity, but to celebrate  
19 or at least acknowledge economic impact that  
20 the Eklutna people have brought to the  
21 community through the real estate, through the  
22 land that they made, what that would continue  
23 to be. That math is out there. And that was a  
24 little bit concerning that that wasn't --  
25 wasn't really embraced.

1                   And so how do you take a people  
2 who, when they had no control, a lot of impact  
3 happened to them, and then when they did have  
4 control, they continued to be a great partner?  
5 Where's the value of that relationship? So  
6 that was a sensitive thing in some of the  
7 meetings at the council. I just add that.

8                   MS. BYLSMA: Thank you.

9                   And to follow up on what you  
10 said, President Leggett, you said there wasn't  
11 serious considerations to some of your  
12 recommendations and alternatives, but some  
13 nominal things were added in.

14                   Can you expand on what part of  
15 your alternatives and recommendations was  
16 incorporated into the final program from your  
17 perspective?

18                   MR. LEGGETT: It had to do with  
19 some of the reopeners and a few minor technical  
20 things. I don't have them. I'm sure they know  
21 what they were. They could tell you what they  
22 were. But they didn't -- in our mind, it  
23 didn't amount to -- to very much. It wasn't,  
24 you know -- it wasn't a fundamental shift. It  
25 was some of the dates and then some of the

1 timing and, like I said, a little bit of money,  
2 you know, doubling from \$125,000 to a quarter  
3 million for mitigation.

4 I mean, I guess the other thing I  
5 just wanted to say is what we're looking for is  
6 not maintaining the status quo. We want to be  
7 a partner in the future. We want to think  
8 about, as our Municipality grows, how do we  
9 create opportunities? We see massive  
10 out-migration in our city. How can we  
11 create -- with a healthy, thriving river, how  
12 can we create developments that build new  
13 housing, new ratepayers, something you've heard  
14 quite a bit about.

15 And a good example of what I  
16 would call negotiating in bad faith was that  
17 in -- I believe it was June of 2023, we  
18 attended a meeting with the project owners, and  
19 one of the things they said as to why they  
20 didn't think that our preferred alternatives  
21 would work is that they had to take into  
22 consideration the increase to the ratepayers  
23 for the utilities. And that they kind of  
24 pinned it on that.

25 Well, three days later,

1 unbeknownst to us, they announce a 6 percent  
2 rate increase; and I believe there's some  
3 lawsuits involved with that, and then how that  
4 all works out.

5 That wasn't disclosed to us. So  
6 to me, that was just an example of not really  
7 being a good partner and negotiating in good  
8 faith.

9 MS. BYLSMA: To follow up on a  
10 couple of things that you stated in your brief,  
11 one of the things that you mentioned was that  
12 you believe the current alternative or the  
13 current final proposed program threatens the  
14 municipal water supply.

15 Can you expand a little bit upon  
16 that?

17 MR. LEGGETT: Well, there's  
18 concern about, yeah, the threat to the  
19 Municipal water supply. I'm not an expert  
20 specifically on how that works.

21 Again, we've heard all sorts of  
22 reasons why -- I mean, I guess we have the  
23 expert from AWWU. I think he can speak to what  
24 that is.

25 So, yeah.

1                   I'm not a technical engineer,  
2 though.

3                   MS. BYLSMA: Okay.

4                   MR. CORSENTINO: Do you want me  
5 to answer? I mean, that will be tacked to your  
6 time.

7                   MR. BUSA: Mark is here  
8 representing Anchorage Hydropower.

9                   MS. BYLSMA: One of the other  
10 things you stated in your brief, and in your  
11 previous comments is that you think in the next  
12 ten years Eklutna Hydropower won't be as  
13 critical to the energy security profile of here  
14 in the Railbelt. Are there -- are there  
15 specific projects coming online that you're  
16 aware of that kind of support that assertion?  
17 Do we know that it's going to sufficiently  
18 replace the amount of energy that will be lost,  
19 just looking at the energy security profile of  
20 what that Eklutna hydro dam provides?

21                   MR. LEGGETT: We're aware of a  
22 number of solar projects that are coming  
23 online. I know that there -- I was happy to  
24 serve on the mayor's transition team and was --  
25 had the opportunity to co-chair the energy

1 securities position. And there's a commitment  
2 from the Municipality of Anchorage to look at  
3 putting solar onto school district buildings.

4 I know my regional corporation,  
5 Cook Inlet Region, Incorporated, who has Fire  
6 Island Wind, would love to double the capacity  
7 of the project there, but has been told by the  
8 utilities that that's not feasible for the  
9 reasons that have been stated about it not  
10 being a consistent source of energy. So,  
11 again, the pumped hydro, the solution -- or the  
12 proposal that we have put would be another  
13 attempt there.

14 I know there's been many other,  
15 you know, energy projects that have been put  
16 out. We know there's a natural gas shortage,  
17 so we know that energy -- new ways of producing  
18 energy is on the forefront of many people's  
19 minds.

20 You know, I've heard all sorts  
21 of -- you know, expanding the capacity out at  
22 the dump is another alternative looking at  
23 perhaps tapping into the old dump.

24 And -- there was another one.

25 You know, the -- you know, there

1 was ideas floated for geothermal at  
2 Chakachamna. Developing the coal over at  
3 Beluga and expanding that out. I mean, I'm not  
4 saying these are absolutes, but I know that  
5 these have been looked at. And again, I think  
6 we are trying to figure out how to create more  
7 stable energy because far too long I think  
8 we've relied on natural gas.

9                   And I should point out, I also  
10 believe that -- this is a different  
11 conversation -- but there isn't an energy --  
12 there isn't a natural gas shortage in Cook  
13 Inlet. There's a shortage of people and the  
14 incentives to develop it moving forward.

15                   MS. BYLSMA: So, of some of  
16 those -- and obviously, you're not a technical  
17 expert, so, you know, that's a fair caveat.  
18 You know, some of those proposed projects you  
19 articulated, are those, to your knowledge,  
20 reliable through the winter months when that  
21 natural gas supply is of the greatest concern?

22                   MR. LEGGETT: I believe they  
23 would be, again, if we had the pumped hydro.  
24 The battery solution would do that.

25                   MS. BYLSMA: And then -- one

1 final question from me. When looking at some  
2 of the alternatives proposed in the dam removal  
3 alternative, you know, there was identified as  
4 some risks to some of the downstream  
5 infrastructure, including the existing AWWU  
6 pipeline access road, highway and railway  
7 bridges. Do you agree that there's risk to  
8 that infrastructure? And how do you see those  
9 concerns being mitigated?

10 MR. LEGGETT: I think there is  
11 potential risks, but I think some of that's a  
12 smokescreen. It should be pointed out that --  
13 for example, the Alaska Railroad. The railroad  
14 was completed in 1923 and had a bridge across  
15 the full-flowing Eklutna River and did not have  
16 an impact. So I think these can all be worked  
17 through.

18 Again, I'm not -- with regard to  
19 the AWWU pipe, I'm less certain of that, but I  
20 think impacts downstream with the highway  
21 bridge and the railroad bridge, I think those  
22 can be worked out.

23 And we've had releases go  
24 downriver -- test releases done. Again, not at  
25 full levels for, you know, hot points, but it

1 has show that that river can take a lot more  
2 water.

3                   And, again, it should be pointed  
4 out also that this is the Eklutna River; it's  
5 not the Eklutna Creek. We have Ship Creek  
6 here. We have the Eklutna River. And I think  
7 pre dam estimates somewhere in the neighborhood  
8 of up to 1,000 cubic feet per second. What's  
9 being proposed now would be anywhere between 60  
10 and maybe 130, 140 cubic feet per second. So  
11 between 6 and 13 percent of what historically  
12 flowed down that river.

13                   MS. BYLSMA: Okay. Thank you.

14                   Do you have any other questions,  
15 Gene?

16                   Well, thank you, President  
17 Leggett and Mr. McQueen. We really appreciate  
18 it.

19                   MR. HICKEY: Do we have any  
20 rebuttal time?

21                   MS. BYLSMA: I think we had about  
22 a minute or so.

23                   MR. GLASS: I'm not going to take  
24 a minute.

25                   We categorically reject counsel

1 for the Municipality's characterization that we  
2 strongarmed anybody or anything of that nature.

3                   But, more importantly, I'd like  
4 to hand it over to the engineer that actually  
5 keeps the lights on to respond to pump storage  
6 hydro.

7                   MR. LAUGHLIN: Yeah. Just a few  
8 comments in response to the pumped storage  
9 hydro project or the proposed project there.  
10 You know, we believe that costs would be  
11 significantly more than what is in our proposed  
12 program right now.

13                   And just as a frame of reference,  
14 we went to look at a turbine rotor, which is a  
15 component of a turbine, last winter, it was 4  
16 to \$10 million, and a year and a half to three  
17 years of lead just to purchase a component of a  
18 turbine. We believe it's going to be  
19 significantly more to replace turbines and to  
20 put them into operation, to flange them up to  
21 the existing infrastructure to make sure the  
22 existing infrastructure operates safely and  
23 prudently and does not suffer any kind of  
24 failures.

25                   Of course, this is a major detour

1 from what the existing operations does look  
2 like right now. So we would see that as  
3 appropriate licensing or something we need to  
4 really reassess there.

5                   And I know we're only supposed to  
6 have a minute, so just to kind of draw it back  
7 to the operation of this, this pump storage  
8 hydro implies there's an excess or surplus of  
9 renewable -- renewables available to use this  
10 thing as a battery for, and that just doesn't  
11 exist right now. We have a few interval  
12 projects online. We have Fire Island, we  
13 have -- sorry, I forget the name of your solar  
14 project out there.

15                   But there's -- this is looking at  
16 significantly more variable renewables than is  
17 available right now to harness the excess or  
18 unusable or non-dispatchable component of that  
19 and pump water uphill, going through all the  
20 efficiency losses that there are when you do  
21 this process to again have efficiency losses as  
22 you bring it back downhill to make that viable.

23                   I think I'm within my minute.

24                   MR. HICKEY: And thanks, again,  
25 everyone, for their thoughts and comments.

1 It's been really helpful, I think, from this  
2 side of the room.

3 We had a lot of discussion about  
4 the pump hydro technology; pros, cons.

5 It seems that that's an issue  
6 that the Municipality and the Native Village of  
7 Eklutna are pushing.

8 It seems like the utility owners  
9 have looked at it in various ways over the past  
10 several years. And we keep hearing about these  
11 alternative reopeners and whether or not  
12 they're going to be viable or not viable.

13 But it seems on all the  
14 reopeners, whether it's the ones that are  
15 included in the draft plan or the ones -- the  
16 reopeners that Anchorage and Native Village are  
17 talking about, the pumped hydro, you have to  
18 start somewhere, right? So there's going to be  
19 a study done on something to try to get fish  
20 passage up to the lake.

21 Is there a consensus in the room  
22 that everybody would be in agreement on to look  
23 at pumped hydro first versus one of the other  
24 reopeners from a study perspective while still  
25 moving forward with the program as it's

1 currently designed?

2 Is there an appetite for that?

3 MR. GLASS: I'm just throwing  
4 this out. I think that part of the utility  
5 project owners' comfort with the reopeners and  
6 the way that they work is that we start moving  
7 through the process to start reestablishing  
8 flows in the river for 11 of the 12 miles, and  
9 that when we're doing that, we gain  
10 knowledge -- and we heard this from the  
11 agencies -- state agencies in particular. They  
12 like that process, to lead to more informed  
13 decision-making in the future.

14 I think that we're comfortable  
15 with that approach rather than -- than studying  
16 pump storage hydro now and doing nothing until  
17 we get there.

18 MR. HICKEY: Let me back up,  
19 because I want to make sure everybody  
20 understands the question.

21 I'm not suggesting by the  
22 question that you don't start the 11 miles of  
23 re-watering. That's not what my question  
24 assumes.

25 My question assumes let's start

1 that process of the re-watering; you're going  
2 to learn things.

3                   Is there an appetite in the room  
4 with respect to then instead of looking at  
5 those other reopeners, the first one you review  
6 is you study pumped hydro and you go down that  
7 road first versus one of the other reopeners,  
8 whether it's the fixed wheel or anything else?

9                   MR. GLASS: I'll let my client  
10 speak to that.

11                   Andrew?

12                   MR. LAUGHLIN: So, you know, we  
13 studied many different alternatives during the  
14 alternatives analysis. I would think we'd be  
15 open to looking at this in the same light,  
16 right, where we have a defined set of criteria,  
17 this is what we're looking at, this level of  
18 engineering, this level of cost analysis, and  
19 it's a pretty straightforward process we've  
20 been through many times. Even after the  
21 alternatives analysis, when they provided  
22 another proposal, we had looked at that as  
23 well. So I think something similar to that.

24                   MR. ZELLERS: We'd be open -- I  
25 mean, part of the first process is we've got to

1 see if the plan can even do it. You know, you  
2 hear a lot of this, but it's a feasibility  
3 study if we could actually physically do it  
4 with the existing structure, not the  
5 turbines -- not the existing turbines. Those  
6 would have to be replaced. I mean, that's not  
7 a hard study to do. Not a long process.

8 MR. GLASS: With one more  
9 criteria that I wanted to mention, is under the  
10 1984 agreement whereby AWWU interconnected with  
11 the project, we made -- the utilities made a  
12 commitment to not do anything that compromises  
13 the quality -- the water quality that has to be  
14 part of the feasibility study.

15 And regardless of which hat Mark  
16 is wearing in any particular point, we are  
17 contractually obliged to not do a darn thing  
18 that messes with the water. And we think that  
19 that needs to be part of the feasibility.

20 MR. HICKEY: Yeah, I get that. I  
21 think what we're trying to understand is it  
22 seems like everyone is in agreement in the room  
23 that fish passage to the lake is something we  
24 would all strive for. I don't hear anybody  
25 saying anything differently.

1                   I think from the Municipality  
2 side, MEA side, what it seems like they're  
3 saying is why study these other things when we  
4 think we have a viable alternative right here  
5 that will get us to that point. And so I just  
6 want to make sure that's what you're saying.

7                   And does that kind of option work  
8 for NVE and the Municipality to move forward on  
9 that before you move forward on the other ones?

10                  MR. BUSA: I want to lead just a  
11 clarifying question, I guess, on the proposal.  
12 I think it's important --

13                  MR. HICKEY: It's not a process  
14 to question.

15                  MR. BUSA: No, I know. I know.  
16 Sorry, I didn't mean to get ahead of my skis.

17                  I think we've proposed, using the  
18 first two years of a three-year  
19 pre-implementation period because we think it's  
20 so important to get it right right from the  
21 outset. And you had said, you know, study this  
22 before the other reopeners.

23                  My recollection is that one of  
24 the reopeners waits until ten years after 2032,  
25 potentially. I don't want to get the details

1        wrong. Please tell me if I'm wrong about that.

2                    But we just think it's really  
3        important to do it, like, now.

4                    MR. HICKEY: Yeah, and that's --  
5        the suggestion would be, look, start the  
6        process, start the re-watering. But the first  
7        thing we're going to look at from Day One,  
8        whatever it is, let's look at pumped hydro, and  
9        is that a viable option going forward? That's  
10        really all I'm asking.

11                  MS. BYLSMA: Because currently on  
12        the table one of the things that you're going  
13        to study first is this fixed wheel gate with  
14        feasibility. So I think what Attorney Hickey  
15        is trying to say, is: Is it an option that  
16        would be amenable to everybody to instead study  
17        pumped hydro first?

18                  MR. GLASS: What's the -- for  
19        everybody, what is the timing for the fixed  
20        wheel gate process?

21                  MS. OWEN: Sure. So, the fixed  
22        wheel gate is something that NMFS and U.S. Fish  
23        and Wildlife and MEA and others really pushed  
24        for. The only reason it was not firmly  
25        committed to in this process is because there

1 are serious stability issues associated with  
2 cutting a -- I want to make sure I'm being very  
3 clear about this. We're proposing to cut out  
4 the middle of the dam and put in a brand new  
5 gate in the existing spillways placed. That's  
6 not a small proposal.

7                   And so we felt that there was an  
8 additional level of engineering analysis needed  
9 before that could be fully committed to.

10                  But given, I would say, some  
11 pretty limited criteria, as long as those  
12 criteria could be met, the dam can still be  
13 stable. And I think we even, quite frankly,  
14 got rid of the cost effective criteria; we  
15 instead just committed to a cap on a sum of  
16 money, saying if it costs more than that, then  
17 we need to find money elsewhere.

18                  But let me be clear: The current  
19 estimate for that fixed wheel gate is 4  
20 million. We committed up to 10 million in 2024  
21 dollars.

22                  For those reasons, we wanted to  
23 set aside, use that first three years before  
24 starting implementation to really looking into  
25 fixed wheel gate further.

1                   And then, also, I know Fish &  
2 Game is not here, and I am in no way want to  
3 speak for them, but I know it was primarily  
4 coming from Fish & Game. Ten years after first  
5 water, the reason for that ten years after  
6 first water is because we're talking about a  
7 salmon run of returning to the river, over  
8 eight miles that has been, quite frankly, dry  
9 for decades. That's not going to happen  
10 tomorrow. Right?

11                   So the ten years is two cycles of  
12 a Chinook -- two Chinook life cycles. And  
13 that's where it came from from Fish & Game.  
14 Let's see what happens after two full Chinook  
15 life cycles.

16                   And then, we don't even know how  
17 long it will take for fish to get that high in  
18 the river anyways.

19                   So, during that ten-year period,  
20 there will be ongoing monitoring. And if  
21 during that monitoring program it shows one of  
22 two things, or both, that higher magnitude  
23 channel maintenance flows would be  
24 beneficial -- and honestly, we will defer to  
25 the fish agencies for that. All they have to

1 say is it would be beneficial.

12 So, given what I would consider  
13 those limited criteria, they are committed to  
14 fixed wheel gate, up to \$10 million.

21 MR. HICKEY: Understood. I  
22 guess -- and we haven't heard from the Federal  
23 agencies, but I think we should on what their  
24 thoughts are on pumped hydro and looking at  
25 that initially rather than as time progresses.

1 MR. COOPER: One of my  
2 statements, as I indicated, we're not really  
3 here to advocate for any particular  
4 alternative. Our goal is the fish passage and  
5 ecological connectivity. So we would largely  
6 defer to the engineers who can speak towards  
7 the operation of those facilities.

8 I think in our good-faith  
9 negotiations, jointly, we've been trying to  
10 find solutions that allow their operations to  
11 continue while achieving our ecological roles.

22 The fixed wheel gate in and of  
23 itself isn't the critical piece for us. It's  
24 getting more water into the system. So if  
25 there was an alternative method of getting that

1 water into the system, we'd be open to that.

2 I think our agency position is  
3 we're open to any alternative that meets those  
4 goals of additional water and ecological  
5 connectivity.

6 And I think, also consistent with  
7 the concept of identifying an alternative as  
8 quickly as possible, that's our goal is to take  
9 action as soon as we reasonably can to achieve  
10 those longer-term goals of our agency.

11 MR. HICKEY: Is NOAA on the same  
12 page with that?

13 MR. McDERMOTT: That certainly  
14 sounded good.

15 (Chuckles.)

16 MR. McDERMOTT: One second, I'm  
17 checking.

18 MS. BYLSMA: Did Alisha hear  
19 that?

20 MR. McDERMOTT: She did, yes.

21 I'm being advised to stick with  
22 more to why we want the gate, which is outlined  
23 by Samantha.

24 I do have concerns with the pump  
25 storage option, but I'm no engineer, no expert.

1 I just a little familiarity based on my past  
2 work. But we're not -- we're not opposed to  
3 evaluating that option.

4 I think the one add-on that I  
5 would say is: Does it have to be instead of  
6 evaluating the fixed wheel gate option?

7 MR. HICKEY: We're not suggesting  
8 that at all. My question doesn't suggest that.

9 MR. BUSA: That should be done in  
10 conjunction with.

11 MR. HICKEY: Yeah. The question  
12 was: If the owners' plan as proposed is moving  
13 forward, is there any barrier to looking at  
14 what's been proposed by NVE -- hang on, one  
15 second -- NVE and the Municipality of Anchorage  
16 of saying we think we ought to be looking at  
17 this pump storage solution immediately? Let's  
18 not wait, right? I want to make sure I'm  
19 understanding that correctly.

20 So does the ability to get that  
21 feasibility study done in the beginning while  
22 the program is still moving forward, does that  
23 work? Before we come back to the ownership  
24 group, I don't think we've heard from NVE or  
25 the Municipality yet.

1                   MR. BUSA: So I think  
2 potentially, yes. I just want to learn more  
3 about what would potentially be on the table.  
4 I suppose it's sort of questions for my friends  
5 on the other side, as well.

6                   One, I would want to know if that  
7 study that's being contemplated would then  
8 generate a proposal that then makes a  
9 decision-point for the Governor regarding the  
10 content of the Fish and Wildlife Program, or is  
11 it just sort of a study and then potentially  
12 the other side doesn't want us to have our vote  
13 and then, you know, nothing happens.

14                  MR. HICKEY: You guys can correct  
15 me if I'm wrong, but as I understand the  
16 reopeners, if you go down the road, we follow  
17 the agreement again, and you go through steps  
18 two through six, and it eventually comes back  
19 to the Governor.

20                  MR. BUSA: I just want to double  
21 check on that.

22                  MR. HICKEY: I don't think  
23 anybody is in disagreement on that, are they?

24                  MR. ZELLERS: I agree that if you  
25 come up with a new thing, you have to go back

1 through the process.

2 MR. HICKEY: Right. Okay.

3 Yeah, that's the way I read the  
4 agreement.

5 MR. ZELLERS: We don't want to go  
6 back through the process. I mean, we've  
7 already spent almost \$8 million on this process  
8 and five years of my time. That's -- there's a  
9 reason why FERC licensing has now moved to  
10 about 50 years, normal, versus 30, 35 years.  
11 Which is what the agreement repeats itself,  
12 every 35 years. We don't want to repeat the  
13 process every five years. That creates a great  
14 burden on our taxpayers.

15 And I just want to mention, you  
16 know, we talk a lot about Anchorage here. But  
17 for Matanuska, we're also -- represent probably  
18 75 percent of the Valley. 75 of our membership  
19 is the Valley. So I just want to add that.  
20 And the actual physical powerhouse is in the  
21 Mat-Su Valley; not Anchorage. I just need to  
22 state that, so, for our membership.

23 MR. HICKEY: Understood.

24 MR. BUSA: And the other two  
25 things, if I could just put more on the table,

1 I would want to know if my friends representing  
2 the utilities would agree that, you know, if  
3 the feasibility study pans out, that it would  
4 be within the scope of the 1991 Agreement.

5 MS. OWEN: So I think I have  
6 something I can put forward for the owners as  
7 an olive branch, of sorts.

8 One, we would really like to  
9 agree to a set level of engineering on what  
10 this feasibility study would entail. That's a  
11 very broad concept. Is this 5 percent  
12 engineering? Is this 15 percent engineering?  
13 There needs to be an end goal.

14 Two, we don't think -- if we were  
15 being consistent with how all the other  
16 alternatives were being evaluated, 5 percent  
17 engineering would be appropriate. Quite  
18 frankly, we would have looked at other  
19 alternatives that were brought forward, even  
20 after the alternatives analysis in good faith.

21 So if we were to do something in  
22 lines with the same level of effort that was  
23 done for other alternatives to look at this,  
24 and we would need a firm proposal that's not  
25 endless iterations of various pump storage

1       concepts, right, something gets put forward, we  
2       say well, that doesn't work for this reason.  
3       And then we, well, what about this. And then  
4       that doesn't work for this reason. And there's  
5       an endless number of concepts.

6                   Speaking to Tony's proposal -- or  
7       Tony's comment here about how we've already  
8       spent a significant amount of time and money on  
9       this process and are looking for firm end  
10      dates.

11                  And then, also, would  
12      Anchorage -- Municipality of Anchorage be  
13      willing to pay for the study, seeing as how it  
14      was brought forward literally within the last  
15      month or two of a five-year process? Is that a  
16      burden -- a financial burden that the  
17      Municipality of Anchorage would be willing to  
18      look for?

19                  And we would also very much  
20      insist that we get a FERC determination of  
21      jurisdiction on whether or not this would be a  
22      FERC regulated process or FERC regulated  
23      project within that time frame.

24                  That's a lot.

25                  MR. BUSA: That is a lot.

1                   MR. HICKEY: How about from the  
2 Native Village of Eklutna's position -- point  
3 of view?

4                   MR. LEGGETT: I mean, there's so  
5 many variables here. I mean, we're up against  
6 it. We're showing up to a baseball field and  
7 told what the rules are. So, you know, and  
8 they keep changing. So, I don't know. I mean,  
9 I'd like to believe it. I'd like to believe  
10 that that could happen, but I'm cautiously, you  
11 know -- we'll look at it. I think that it  
12 would take --

13                  MR. HICKEY: I'm not trying to  
14 get a binding agreement by any stretch of the  
15 imagination here, okay? That's not the purpose  
16 of the question.

17                  The question was just put out  
18 there because there seems to be a difference of  
19 opinion on what's the proper approach to go  
20 forward, and so I was just asking with respect  
21 to we've got this late proposal in, where are  
22 you guys at, and what do you guys think about  
23 that? Because nobody has addressed it within  
24 the documents. That's the only reason for the  
25 question.

1                   I'm not trying to broker a  
2 settlement here, guys, okay? That's not the  
3 purpose.

4                   MR. LEGGETT: Yeah, we'd like to  
5 look at it.

6                   MR. BUSA: If I could just note a  
7 couple things, if that'd be appropriate.

8                   I don't think we have interest in  
9 proposing endless concepts. We really do want  
10 to work, like, in good faith, collaboratively  
11 on achieving actual consideration of a finite  
12 set of ideas.

13                  I would think it would be  
14 important for Anchorage to be fully  
15 participating in that process. I wonder what  
16 you think about allowing Anchorage to actually  
17 have a vote when we're considering this idea  
18 going forward.

19                  MR. GLASS: It's a complex  
20 question, just to respond to that, if you don't  
21 mind.

22                  Is that right now, the  
23 Municipality is signed up to pay for 19  
24 percent, or less, actually. It depends upon  
25 the value of power. But, so as much as we're

1 the minority owners, we're the majority cost  
2 holders of what gets determined here. So are  
3 you -- are you saying that you get your 54  
4 percent vote and you can -- whereby the cost's  
5 on the other 81 percent holders? Is that what  
6 you're proposing?

7 MR. BUSA: I guess what I'm  
8 proposing is that the existing agreements that  
9 govern the project should be fully operable.  
10 We should have our vote back. Like, I think  
11 there should be agreement on that, right?

12 MR. GLASS: Honestly, I don't  
13 want to get into RCA's Commission --

14 MR. HICKEY: We're beyond our  
15 scope here, as well, right? That's not the  
16 jurisdiction --

17 MR. BUSA: If we're paying for  
18 the whole thing, then we're going to take lead.  
19 I mean, but I think we should agree that  
20 there's a probably better pathway that's there,  
21 a reasonable and quick and efficient for the  
22 betterment of the process.

23 MR. HICKEY: I don't have  
24 anything else.

25 MR. LEGGETT: I just want to say,

1 if the burden falls on the Municipality of  
2 Anchorage, the Native Village of Eklutna is  
3 fully committed to securing funding to help  
4 assist that.

5 MS. BYLSMA: I don't have any  
6 other questions.

7 So, thank you, again, everybody,  
8 for coming and for sharing your thoughts and  
9 perspectives and the discussion. I really  
10 appreciate the time and effort spent both on  
11 submitting the briefs and then taking the time  
12 to answer questions today.

13 Certainly, the briefs and  
14 transcript will be helpful to the Governor as  
15 he's looking to make his decision.

16 So, with that note, then I'm  
17 going to say we're adjourned.

18 (Meeting adjourned at 3:10 p.m.)

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<b>12 (2)</b>	94:17	18:1;88:3;100:9		
10:24;104:8	<b>2024 (3)</b>	<b>67 (1)</b>		
<b>120 (1)</b>	14:15;19:12;109:20	40:6		
52:9	<b>2032 (1)</b>		<b>7</b>	
<b>13 (1)</b>	107:24			
100:11	<b>21st (1)</b>			
<b>130 (1)</b>	77:12	<b>7 (1)</b>		
100:10	<b>23rd (2)</b>	59:5		
<b>140 (1)</b>	14:15;42:24	<b>75 (2)</b>		
100:10	<b>25 (3)</b>	116:18,18		
<b>15 (4)</b>	8:20;32:12;52:6	<b>7th (1)</b>		
7:6,12;80:20;	<b>27th (1)</b>	71:7		
117:12	24:13		<b>8</b>	
<b>150 (1)</b>	<b>29 (1)</b>			
52:3	32:11			
<b>169 (1)</b>	<b>3 (1)</b>	<b>8.5 (1)</b>		
18:14	36:25	87:9		
<b>18 (1)</b>	<b>3:10 (1)</b>	<b>81 (1)</b>		
20:17		121:5		
		<b>850 (1)</b>		