



April 24, 2020

Samantha Owen
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via: owen@mcmjac.com

RE: Comments on the Draft Initial Information Package for the Eklutna Hydroelectric Project

Dear Ms. Owen,

Please accept these comments on the Draft Initial Information Package (IIP) for the Eklutna Hydroelectric Project on behalf of Trout Unlimited, Alaska. Trout Unlimited (TU) appreciates the opportunity to provide feedback on the Draft IIP and hopes these comments help the parties design and implement a comprehensive and successful Fish and Wildlife Program for the Eklutna Hydroelectric Project.

TU is the nation's largest sportsman's organization dedicated to coldwater conservation with approximately 1,100 members and 20,000 supporters in Alaska that are passionate anglers, lodge owners, fishing and hunting guides, and commercial fishermen, among various other occupations. TU is dedicated to conserving, protecting and restoring coldwater fisheries and their watersheds, and has long participated in efforts to protect and conserve fishery resources within southcentral Alaska. In addition to our members in more remote parts of the state, TU has active chapters in Anchorage and the Mat-Su, on the Kenai Peninsula, in Fairbanks, and in Southeast Alaska.

Many of TU's members choose to live in Alaska because of the many benefits afforded to them by healthy fish and wildlife populations, Alaska's wild landscapes, and its naturally-flowing rivers that support some of the largest and best wild salmon fisheries in the world. Our members enjoy fishing and hunting on the weekend, many earn their living from those same resources during the work week, and we all care deeply about passing this way of life on to future generations. We frequently recreate in Eklutna State Park, hike to Thunderbird Falls, or fish at the Eklutna Tailrace. Many of our members and supporters are ratepayers and live within the service area of Chugach Electric Association, Matanuska Electric Association, or Municipal Light and Power.

While TU and its members value reliable and economic sources of power for local communities, and recognize it is absolutely essential to maintain a clean and plentiful water source for the City of Anchorage, we believe it is also possible to restore the Eklutna River and bring back its once-abundant runs of wild salmon. TU has enjoyed working with diverse stakeholders to find long-term successes to complex water management and hydropower challenges in other parts of the country, and we see no reason a similar success story can't be told with the Eklutna. We are encouraged the utilities are accepting input, and that they have invited TU and other stakeholders to participate in this process, which will determine the future of the Eklutna River.

Trout Unlimited: America's Leading Coldwater Fisheries Conservation Organization

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Of course, and without question, the most important stakeholder in this process is the Native Village of Eklutna, whose people are the ancestral residents of the Eklutna River watershed, and who too often have been left without a voice in important decisions affecting the future of their homeland. Excluding the Native Village of Eklutna from the 1991 Agreement was an egregious oversight. We encourage all parties to the 1991 Agreement to work together to find a way to make the Native Village of Eklutna a more meaningful and formal participant of this process.

I. Mitigation Must be Comprehensive and Account for all Impacts to Fish, Wildlife, and Habitat.

The 1991 Fish and Wildlife Agreement for the Eklutna Hydroelectric Project presents both advantages and disadvantages, but the overriding obligation for a meaningful Fish and Wildlife Program to comprehensively address impacts to fish, wildlife, and their habitat is clear. By approving the agreement, Congress allowed the project to sidestep the typical requirement and bureaucratic burden of obtaining a license from the Federal Energy Regulatory Commission (FERC). In its place, the 1991 Agreement specifically requires “the protection, mitigation of damage to, and enhancement of fish and wildlife (including related spawning grounds and habitat)” affected by the Eklutna Hydroelectric Project.¹ By specifying including the phrase “including related spawning grounds and habitat” in numerous places throughout the 1991 Agreement, the agreement explicitly obligates the utilities to undertake restorative efforts to address impacts to the physical habitat that once supported salmon.

While the 1991 Agreement recognizes that studies are needed to quantify the full impacts of the Eklutna Hydropower Project and identify all appropriate mitigation measures the utilities must employ, the 1992 Divestiture Report, which was completed before the transaction date that triggered the requirements of the 1991 Agreement, provides important context to understand how the parties at the time viewed the agreement and the obligations it imposed on the parties. The 1992 Divestiture Report states:

During reviews of the legislative proposal, loss of a sockeye salmon run that once spawned in Eklutna Lake was identified This specific problem and the desires of the fish and wildlife agencies to provide appropriate consideration to fish and wildlife resources over the long run led to the August 7, 1991 Agreement.²

Additionally, the 1992 Divestiture Report makes clear that the 1991 Agreement was intended to provide more rigorous and meaningful mitigation than FERC licensing. It states:

Given the nature of the projects and the river basins affected, there is good reason to believe that the proposed arrangements will work at least as well as Federal regulation for the intended purpose of mitigation and enhancement of affected fish and wildlife resources. The August 7, 1991 Agreement affords fish and wildlife interests a stronger voice in project management than would be available under continued Federal ownership.³

¹ Fish and Wildlife Agreement Snettisham and Eklutna Projects at 1 (August 7, 1991), available at <https://www.eklutnainc.com/wp/wp-content/uploads/2017/12/Eklutna-Snettisham-FW-agreement.pdf>.

² Alaska Power Administration, U.S. Dept. of Energy, Divestiture Summary Report Sale of the Eklutna and Snettisham Hydroelectric Projects at 19 (April 1992) available at <http://akenergyinventory.org/hyd/SSH-1992-0042.pdf>.

³ *Id.* at 20.

It also makes clear that the 1991 Agreement was designed to accommodate impacts from the Eklutna Hydropower Project that change over time.⁴ The 1991 Agreement is designed to account for changes in impacts from the project over time and recognizes future impacts might not be the same as past impacts. Since the Lower Eklutna Dam blocked salmon migration prior to construction of the Eklutna Hydropower Project, the lower dam bore initial responsibility for closing access to much of the Eklutna River to salmon and limited which impacts could fairly be attributed to the upper project during that project's existence. However, now that the Lower Eklutna Dam has been removed and it no longer affects migration, flow, or sedimentation, present and future impacts are the responsibility of the Eklutna Hydroelectric Project.

The 1991 Agreement's specific and numerous references to spawning grounds and habitat, the 1992 Divestiture Report's clear explanation that concern over impacts to sockeye salmon helped drive the 1991 Agreement, and the belief at the time that the 1991 Agreement would provide stronger protections for fish and wildlife and their habitat than traditional FERC licensing, make clear that protection, mitigation and enhancement efforts by the utilities must be comprehensive and account for all impacts to fish, wildlife, and habitat.

While an impressive amount of information is consolidated into the Draft IIP, at various points it also diminishes the importance of the 1991 Agreement, the impacts of the Eklutna Hydropower Project to fish and wildlife and their habitat, and the obligations of the utilities. Section 1.2 focuses almost entirely on the procedural requirements of the 1991 Agreement and includes very little discussion of its substantive requirements, or the expectations of the parties. Similarly, section 6.1 severely downplays and omits many impacts of the project. The Draft IIP notes that when the project was constructed its primary effects were "changing the hydrologic regime" of the watershed, and that its "overall effect . . . was thus to diminish significantly the amount and timing of water in the Eklutna River."⁵ While these sections are discussed more below in specific comments, they Draft IIP and these sections in particular fail to capture appropriately the underlying purpose and importance of the 1991 Agreement, and the scope and scale of impacts that must be addressed.

II. Comments on Specific Sections of the Draft IIP

In addition to the general comments discussed above, TU has the following comments on specific sections of the Draft IIP:

- Section 1.1.3, page 14 – Regarding sockeye salmon, this section characterizes the loss of sockeye salmon as an "alleged" loss. This ignores the rich oral history, statements from the 1992 Divestiture Report, and the presence of sockeye salmon in the lower portions of the Eklutna River today. As discussed above, the loss of sockeye salmon was one of the prime motivators for creating the 1991 Agreement. Their loss should not be characterized as "alleged."
- Section 1.1.3, page 15 – Quoting the 1992 Divestiture Report provides important context. As discussed above, this quote stresses the intent of the parties to the 1991 Agreement at the time it was entered to ensure that impacts to fish and wildlife are thoroughly and comprehensively addressed.

⁴ See *id.* at 19.

⁵ Draft IIP at 134-135.

- Section 1.2, page 15 – This section discusses the procedural requirements of the 1991 Agreement while paying little attention to the substantive requirements of the agreement. A greater effort should be made to describe the substantive requirements; the expected outcomes and desired conditions that should prevail in the Eklutna watershed after implementation of protection, mitigation, and enhancement efforts; and the collective expectations of the parties. The workshop TU and the Native Village of Eklutna hosted should serve as a guide to help identify desired conditions.
- Section 3.4.3, page 32 – This section notes the City of Anchorage purchased the hydropower project in 1942, which at the time included an original diversion dam. This is a very brief subsection and additional information on the Order Approving Transfer of License approved by the Federal Power Commission would be helpful, if available, for tracking the ownership and responsibility for the lower Eklutna Dam.
- Section 4.2.2, page 61 – This section states that the “Eklutna Hydroelectric Project produces nearly 6% of the project owners combined generation”. The use of “nearly” in this statement means less than 6%, and in order to fully understand the contributions made by the Eklutna Hydroelectric Project to the grid, a more accurate accounting for the project's contributions would be helpful. One remedy would be to add a column to “Table 4-1 Historic Annual Eklutna Hydroelectric Project Water Usage and Energy Generation” displaying the annual percentage of electricity provided to the owners’ energy portfolio by the Eklutna Hydroelectric Project.
- Section 4.2.2, page 61 – This section is titled “Water Usage, Energy Generation, and Cost of Power”. However, it includes very little discussion of water usage. Table 4-1 includes yearly water usage for the past 10 years, but does not include any information about usage prior to 2010, about when within each year water is used, how that usage relates to lake inflows, or how the use relates to energy production or municipal water uses. The Municipality of Anchorage holds a certificate for water from the Alaska Department of Natural Resources for the water use from the outlet of the Eklutna Lake, LAS 2569. This certificate, which has a priority date in 1985, allows for the use of 41 million gallons per day, with the quantity of water to be re-evaluated after 9, 15, 20, 25, 30 and 35 years. The IIP should include specific information about water usage for each year data exist, include as much precision as possible and be no coarser than a month-by-month basis, and include all other relevant information from the periodic re-evaluations of LAS 2569. All information on water use should be clearly linked to how much power was generated, how much went to municipal water uses, or how much went to whatever other use the water might have been put toward. If the Eklutna Hydroelectric Project operates pursuant to other water certificates, information for each of those other certificates should also be included in the IIP.
- Section 4.2.2, page 61 – The value of the Eklutna Hydroelectric Project is quantified as the “lowest-cost resource for power in the Railbelt. The average cost of power produced by the project is \$0.013 per kWh.” The cost of power per kWh is provided for the Bradley Lake Hydroelectric Project for comparison, but the Eklutna and Bradley Lake Hydroelectric Projects are just snapshot of the owners’ portfolio and additional info such as the cost of power per kWh and the percentage power generated for Fire Island wind and natural gas would help better show the full picture of the grid and various individual projects’ relative importance. This section also states that “Eklutna hydro generation offsets approximately 86,000 tons of carbon

each year,” but to better understand the significance of this offset it would be helpful to have something to compare it to, such as the annual carbon emissions of the owners.

- Section 5.1.1, page 65 – This section states that “the lower Eklutna River continues to flow throughout the winter”. What constitutes the lower Eklutna River in this statement? Is this limited to the area downstream of the confluence of Thunderbird Creek, where the overwhelming majority of the water in the Eklutna River is attributed to the Thunderbird Creek. Does the lower Eklutna River flow throughout the winter because of Thunderbird Creek’s contribution, or does a portion of the river upstream of the Thunder Bird Creek confluence still flow throughout the winter? If so, how much?
- Section 5.1.2, page 66 – This section states “The owners are therefore committed to ensuring continued compliance with the requirements of the 1991 Fish and Wildlife Agreement and balancing renewable energy against alternative uses for Eklutna Lake water”. This statement shows a bias against the natural uses of the water and implies a belief, which TU emphatically does not share, that energy production and water use for fish and wildlife are incompatible.
- Section 5.2.6, page 69 – Thunderbird Creek and Thunderbird Falls are introduced with minimal information. At current, Thunderbird Creek is critical to the lower reaches and fish habitat of the Eklutna River since it is the largest reliable source of water. This section should be expanded with more information quantifying Thunderbird Creek’s contributions, such as a new table displaying average flows of Thunderbird Creek, average flows of the Eklutna River upstream of the confluence, and average flows of the combined Eklutna River.
- Section 5.4.3.2, page 96 – This section focuses on known spawning areas and potential for spawning on most sections of the river system, excluding habitat upstream of the Lower Eklutna Dam. This section should also include discussion of historic and potential spawning habitat upstream of the lower dam site, including areas upstream of the Eklutna Hydropower Project in and around the lake or its feeder streams.
- Section 6.1, page 133-34 – This section dramatically understates the impacts of the Eklutna Hydropower Project and fails to capture the present and future impacts. It states:

With regard to the fish assemblage in the Eklutna River, the construction of the historic lower diversion dam in 1929 eliminated the opportunity for fish to pass above that dam site into the portion of the river upstream. There were no fish passage facilities included in the construction of the lower diversion dam. This effectively eliminated any anadromous fish above the lower diversion dam.

The overall effect of the federal hydropower development was thus to diminish significantly the amount and timing of water in the Eklutna River throughout the entire river by diverting most of the water to the federal project powerhouse located on the Knik Arm. However, with respect to effects on the anadromous fish of interest, those flow impacts only occurred below the historic lower diversion dam site since anadromous fish did not exist above the lower diversion dam after 1929. Resident fish impacts from the change in flow regime would have occurred along the entire length of the river.

As the 1992 Divestiture Report states, the lower dam blocked salmon migration so that when the upper project was completed no salmon could migrate upstream past the lower dam. However, as discussed above, the impacts of the upper project change over time such that impacts today are different than impacts experienced at the date the project was constructed, which might both vary compared to possible future impacts. The 1991 Agreement accounted for these changes over time, and so should the Fish and Wildlife Program. Likewise, the IIP should include a much more robust and comprehensive discussion of the impacts from the Eklutna Hydroelectric Project. Even though the Study Plan is not complete and impacts of the project may change over time, the IIP can and should provide a better accounting of the impacts. In addition to diminishing significantly the amount and timing of water, the project blocks salmon migration now that the lower dam has been removed, has changed the sedimentation regime in the river, affects the lake habitat and its usage by resident and anadromous fishes, blocks habitat usage upstream of the lake, among other not-yet known impacts. Beyond the biological and ecological impacts, the project also has significant cultural and subsistence impacts that need to be discussed.

- Section 6.3.2, page 147 – TU has various studies underway in partnership with other stakeholders that could be referenced: (1) we are partnering with the Native Village of Eklutna to conduct a formal Traditional Ecological Knowledge assessment of the historic and cultural importance of the Eklutna River; (2) we are partnering with the Alaska Department of Fish and Game to continue and expand monitoring efforts in the River; and (3) we expect to undertake an off-channel habitat assessment upstream of the lower dam site to better understand necessary flows for habitat viability and use. We are happy to share more and will, of course, share any results once they are available.

III. Conclusion

Thank you for your consideration of these comments on the Draft IIP. TU and its members are committed to helping any way we can throughout this process. We believe the Eklutna River presents a unique opportunity for all parties to work together to restore once-abundant salmon populations, make the Eklutna River a stronger cultural, subsistence, and recreation resource for the local community, and to remain a municipal water supply and source of renewable power generation. We look forward to continuing to work with the parties to the 1991 Agreement, the Native Village of Eklutna, and other participating stakeholders.

Sincerely,



Austin Williams
Alaska Director of Law and Policy
Trout Unlimited