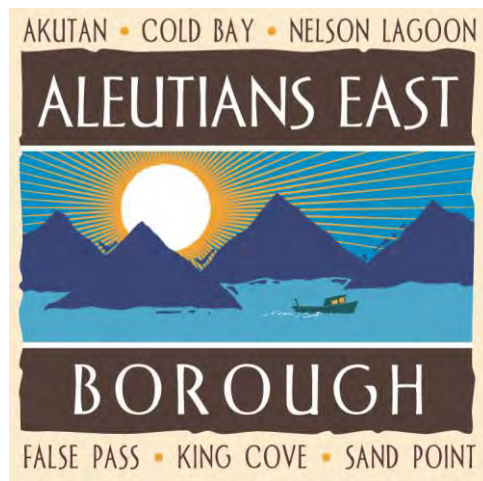


# Aleutians East Borough Assembly Meeting

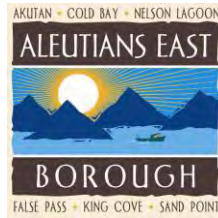


**Workshop: Thursday, September 10, 2020 – 1:00 p.m.**

**Meeting: Thursday, September 10, 2020 – 3:00 p.m.**

# Roll Call & Establishment of a Quorum

# Adoption of Agenda



Agenda  
Assembly Meeting  
(packet available on website [www.aleutianseast.org](http://www.aleutianseast.org) )

Date: Thursday, September 10, 2020  
Time: Workshop: 1:00 p.m. Meeting: 3:00 p.m.

**Due to Covid-19, the Assembly meeting will not have public locations. All Assembly Members will dial in from individual locations, for the purpose of following the mandates, social distancing and protecting the public health.**

**The meeting will be broadcast on KSDP Public Radio. If you do not have the radio station broadcasting in your community, you can go to KSDP website, <http://apradio.org/> to stream the meeting.**

**Prior to and during the meeting, Public Comments on Agenda items or Public Comments on other issues can be e-mailed to [ltanis@aeboro.org](mailto:ltanis@aeboro.org), Subject: *September Assembly Meeting*, to be read at the appropriate time during the meeting.**

**ASSEMBLY MEETING AGENDA**

1. Roll Call & Establishment of Quorum.
2. Adoption of the Agenda.
3. Conflict of Interest.
4. Public Comments on Agenda Items (*to be e-mailed to [ltanis@aeboro.org](mailto:ltanis@aeboro.org)*).
5. Presentations by telecommunications providers:
  - GCI
  - TelAlaska
6. Minutes.
  - August 13, 2020 Assembly Meeting Minutes.
7. Financial Reports.
  - *No July financial report at this time.*
  - July Investment Report.
8. Consent Agenda.
  - Resolution 21-14, appointing election judges for the October 6, 2020 Regular Election.
  - Resolution 21-15 appointing a canvass committee for the October 6, 2020 Regular Election.

9. Public Hearing
  - Public Hearing Ordinance 21-03, Amending Title 4, Elections to add provisions for increased voter accessibility.
10. Resolutions.
  - Resolution 21-12, authorizing the mayor to negotiate and execute Amendment No. 4 of the Co-Sponsorship Agreement with DOT/PF and City of Akutan.
  - Resolution 21-13, authorizing the mayor to negotiate and execute a Tribal Partnership Program cost share agreement between U.S. Army Corps of Engineers, Akutan Tribal Council and AEB for the Akun Island Navigational Improvements Tribal Partnership Feasibility Study.
  - Resolution 21-16, authorizing the mayor to negotiate and execute an agreement with Robertson Monagle and Eastaugh to provide legal representation in the 9<sup>th</sup> Circuit Court of Appeals to appeal the June 1, 2020 Alaska Federal District Court Decision by Judge Sedwick in Friends of Alaska National Wildlife Refuge, et.al. V. King Cove Corp. al.; in an amount not to exceed \$107,750.
11. Old Business.
  - Cod Fisheries Update.
12. New Business.
  - Aleutians East Borough Strategic Plan Quarter 2 Update.
  - Discussion – Salmon Disaster Declaration.
13. Reports and Updates.
14. Assembly Comments.
15. Public Comments. *(to be e-mailed to ltanis@aeboro.org).*
16. Next Meeting Date.
17. Adjournment.

## Conflict of Interests

# Public Comment on Agenda Items

## Presentations

GCI

TelAlaska

# Minutes

## CALL TO ORDER

Mayor Alvin D. Osterback called the Aleutians East Borough Assembly meeting to order by teleconference in each community on August 13, 2020 at 3:00 p.m.

## ROLL CALL

Mayor Alvin D. Osterback	Present
Chris Babcock	Present
Carol Foster	Present
Warren Wilson	Present
Josephine Shangin	Present
Paul Gronholdt	Present
Brenda Wilson	Present
Denise Mobeck	Present

### Advisory Members:

Dailey Schaack, Cold Bay	Present
Samantha McNeley, Nelson Lagoon	Present
Tom Hoblet, False Pass	Absent

A quorum was present.

### Staff Present:

Roxann Newman, Finance Director  
Tina Anderson, Clerk  
Anne Bailey, Administrator  
Mary Tesche, Assistant Administrator  
Ernie Weiss, Natural Resources Director  
Charlotte Levy, Assistant Natural Resources Director  
Glennora Dushkin, Administrative Assistant  
Laura Tanis, Communications Director  
Emil Mobeck, Maintenance Director

### Adoption of the Agenda:

BRENDA moved to adopt the agenda with additions and second by JOSEPHINE.

#### Additions:

- New Business, Cod and Chignik Salmon Disaster Funding (Paul)
- New Business, Procedures of Handling E-Mails. (Paul)
- New Business, Conversation on Telecommunications (Chris)

### Conflict of Interests:

Mayor Osterback asked for any potential **Conflict of Interests** to discuss. There were no conflicts.

### Community Roll Call and Public Comments on Agenda Items:

All Assembly and staff were participating by teleconference from their individual locations, for the purpose of following the mandates of social distancing and protecting the public health. Also broadcast on KSDP radio.

The Communications Director, Laura Tanis, will read any Public Comments submitted by e-mail.

There were no public comments.

Minutes, July 9, 2020 Assembly Meeting Minutes:

**MOTION**

CHRIS moved to approve the July 9, 2020 Assembly Minutes and second by CAROL.

Hearing no objections, **MOTION CARRIED.**

Financial Report – June:

**MOTION**

BRENDA moved to approve the June Financial Report and second by DENISE.

Administrator said June Financial is end of FY2020. Revenue above anticipated amount. Expenditures less, largely due to less travel expenditures due to Covid-19.

Helicopter and terminal, exceeded our expectations. Helicopter paying on time. The terminal leases exceeded what we thought and under budget for expenditures.

Administrator requested an amendment to line item, an invoice for attorney expense in FY20, to be included.

**AMENDMENT**

PAUL moved to amend line item E 20-867-168-850, change year-to-date amount to \$120,213.98 and month-to-date amount to \$7,050. Second by JOSEPHINE.

**DISCUSSION**

Administrator said this is an invoice for payment for attorney fees for prior litigation for FY20 expense that didn't get processed in the fiscal year.

**ROLL CALL ON AMENDMENT**

YEAS: Warren, Brenda, Paul, Carol, Josephine, Chris, Denise. Advisory: Samantha, Dailey.

NAY: None

PAUL noted his concern about possible low July and August raw fish tax revenues.

**ROLL CALL ON MAIN MOTION**

YEAS: Denise, Warren, Josephine, Brenda, Chris, Paul, Carol. Advisory: Samantha, Dailey.

NAY: None

**MOTION CARRIED**

June Investment Report:

Report in packet. Administrator said permanent fund balance, as of yesterday, is \$41,697,000.

PAUL asked what the highest amount we have had in the permanent fund. Administrator will get back to him later as she does not have that information available.

CONSENT AGENDA

- Resolution 21-05, Assembly submitting a harbor facility grant application to the State of Alaska, DOT/PF in the amount of \$3,560,000 for the Sand Pt. Harbor Float A Project. *(Typo was corrected on Resolution amount to \$3,560,000.)*
- Resolution 21-06, authorizing the mayor to negotiate and execute an agreement with BDO USA LLP to provide professional auditing services for FY2020, in an amount not to exceed \$68,250.
- Resolution 21-08 authorizing the mayor to negotiate and execute a contract with DOWL to provide professional engineering, project management and construction management services to AEB in the amount of \$25,000.

### **MOTION**

CHRIS moved to approve the Consent Agenda and second by BRENDA.

Administrator said Resolution 21-05 is for a harbor facility grant application to the State of Alaska DOT/PF in the amount of \$3,560,000 for Sand Pt. Harbor Float A Project.

On May 8 AEB submitted a Federal Port Infrastructure Development Program Grant for both Sand Point and Akutan harbor float projects, cost to complete both is \$19.8M. \$15.8M federal funds requested, \$3.9M AEB match.

We intended to submit two separate State of Alaska Municipal Harbor Facility Grant application projects for both Sand Point and Akutan, requiring a 50% match. Unfortunately, doing both would exceed \$5M limit. So, opted to do Sand Point harbor float project with a \$3.5M match. Grant was submitted August 3 and Resolution 21-05 is additional support for the DOT/PF grant application.

Administrator said, if we get the funding, the schedule would go out to bid as early as next year. If funded, the project is shovel ready.

Resolution 21-06 authorizes the mayor to negotiate and execute an agreement for audit services. Administrator recommends extending contract to BDO for auditing services for FY20. Additional cost of \$10,000 put in for unanticipated expenses. BDO will not be travelling to King Cove and will do audit virtually through a porthole, if approved.

Resolution 21-08 authorizes the mayor to negotiate and execute an agreement with DOWL. In July 2015 AEB entered into a two-year contract with DOWL, with the additional 3-year renewal. On June 22, Administration issued an RFP, and received five proposals. They were reviewed by a committee that determined DOWL the most qualified respondent. Recommend issuing a contract for September 1 through August 31, 2022 with an option to renew for a 3-year period.

### **ROLL CALL**

YEAS: Josephine, Denise, Brenda, Paul, Chris, Warren, Carol. Advisory: Samantha, Dailey  
NAY: None

### **MOTION CARRIED**

### **ORDINANCES**

Emergency Ordinance 21-02, the Aleutians East Borough Assembly issuing a Declaration of Disaster Emergency in response to Covid-19 – to be in effect until October 11.

### **MOTION**

JOSEPHINE moved to approve Ordinance 21-02 and second by DENISE.

**DISCUSSION**

Administrator said the Assembly has already passed three emergency ordinances 20-07, 20-08, 21-01. Emergency ordinances only last for 60 days. If approved, will allow us to continue to do teleconferences. This will supersede the other ordinance and in effect until October 11, 2020.

**ROLL CALL**

YEAS: Carol, Chris, Josephine, Brenda, Denise, Paul, Warren. Advisory: Samantha, Dailey  
NAY: None.

**MOTION CARRIED**

Introduction Ordinance 21-03, Amending Title 4, Elections to add provisions for increased voter accessibility:

**MOTION**

WARREN moved to accept Ordinance 21-03 and set for Public Hearing. Second by BRENDA.

**DISCUSSION**

The Clerk reviewed saying Introduction Ordinance 21-03 will allow Early Voting 15 days prior to the election to increase voter accessibility prior to Election Day. This will provide better social distancing and protect the public health, during this pandemic. The ordinance will also allow the clerk to appoint a high school student in good standing in a public, private or qualified home school program, 16 years old or older, and a U.S. citizen.

**ROLL CALL**

YEAS: Brenda, Chris, Denise, Warren, Carol, Paul, Josephine. Advisory: Dailey Samantha,  
NAY: None.

**MOTION CARRIED**

**RESOLUTIONS**

Resolution 21-07, encouraging individuals to wear masks or cloth face coverings in public places during the Covid-19 pandemic.

**MOTION**

JOSEPHINE moved to approve Resolution 21-07 and second by WARREN.

Administrator said Resolution 21-07 encourages the public to wear a mask. Since AEB is a second-class borough we do not have the ability to mandate, in response to the pandemic. The AEB staff will also initiate a Face Mask Campaign to encourage people to wear a mask.

PAUL said the N95 masks are the best masks tested and asked if they can be purchased in AEB. Administrator does not know. She said AEB is purchasing more disposable masks with CARES Act funding.

**ROLL CALL**

YEAS: Warren, Paul, Denise, Chris, Carol, Josephine, Brenda. Advisory: Samantha, Daily  
NAY: None

**MOTION CARRIED**

Resolution 21-09, authorizing the mayor to negotiate and execute a MOA between the AEB and Akutan Traditional Council for the Akun boat harbor study (*wave barrier w/ dock*):

**MOTION**

DENISE moved to approve Resolution 21-09 and second by CAROL.

**DISCUSSION**

Administrator said AEB did enter into a Co-Sponsorship Agreement (CSA) with City of Akutan and State of Alaska DOT. Under the CSA the AEB committed to provide transportation between Akutan and Akun for 20 years. AEB first operated the hovercraft 2012-2014 and then the helicopter service. In 2019 Essential Air Service contracted with the helicopter service, Maritime Services. AEB participates by paying 50%, per agreement.

Efforts to look for more cost effective and sustainable transportation are ongoing to transfer passengers and cargo on Akun. AEB and Corps of Engineers initiated a study into the construction of a breakwater or wave barrier pursuant to Section 107 Small Navigation Projects Program. The project cost exceeded the Section 107 funding parameters and in December 2019 AEB terminated the project.

The best program to complete the study is under the Tribal Partnership Program (TPP). On March 2, 2020, the Akutan Tribal Council sent a letter to the Corps to participate as the sponsor of the Akutan navigation project, authorizing the TPP to investigate a breakwater and dock at Akun. On July 21, 2020, the AEB and Tribe were informed that the Corps had an opening to start a new study under the TPP, cost estimate \$2,516,000. Federal cost \$1.5M. Matching local cost is \$1.016M. The first \$484,000 of total cost will be 100% federal, all other costs will be cost-shared 50% federal, 50% non-federal. The study would have to be completed in 3 years. All involved agreed TPP is worth pursuing.

AEB responsibility is to take the lead on the project and to pay the \$1.016M non-Federal match amount. Tribe will be primary sponsor and will assist with work. AEB has a total of \$5,380,330 available that includes bond funds and Co-Sponsorship Agreement funds. Recommend authorizing the Mayor to negotiate and execute a MOA between the Borough and Tribe, for the study.

PAUL noted clarification on resolution title that says harbor and doesn't include wave barrier and dock.

Mayor Osterback said it is going to be a wave barrier with a dock for a ferry and size is yet to be determined. It is not a full blown boat harbor but a safe haven for a ferry to go in.

**ROLL CALL**

YEAS: Paul, Warren, Carol, Chris, Denise, Brenda, Josephine. Advisory: Samantha, Dailey.

NAY: None

**MOTION CARRIED**

Resolution 21-10 approving the Aleutians East Borough's Coronavirus Aid, Relief, and Economic Security (CARES) Act Funding Program Allocations in the amount of \$3,723,853.74.

**MOTION**

JOSEPHINE moved to approve Resolution 21-10 and second by WARREN.

**DISCUSSION**

Administrator said at the May 28 Assembly Meeting, the Assembly approved Resolution 20-66 accepting Coronavirus Relief Funds in the amount of \$3,723,853 from Alaska Dept of Commerce, Community and Economic Development (DCCED). AEB submitted to DCCED the grant agreement. As requested, the Administration has reviewed how other communities are distributing funds (in packet).

Resolution authorizes the Mayor to appropriate the CARES Act funds as outlined in Exhibit A (in packet), to prepare the forms and instructions for allocations, and when necessary to re-appropriate funds between the programs, if necessary.

\$2.3M is allocated for emergency assistance and economic stimulus, for residents.

#### **DISCUSSION**

CAROL said people are impacted today and feel we need to help as soon as we can. Staff did an excellent job of putting this together.

CHRIS said he supports also. Feels we need to act on this immediately to get funding out to people.

PAUL feels there should be more public input on ways to distribute the money. None have been allocated to fisheries.

#### **MOTION TO TABLE**

PAUL moved to table until next week and second by JOSEPHINE.

#### **ROLL CALL**

YEAS: Paul, Josephine, Denise. Advisory: Samantha.

NAY: Carol, Chris, Brenda, Warren.

#### **MOTION FAILED**

#### **AMENDMENT**

PAUL moved to remove \$1M from emergency assistance and economic stimulus amount of \$2.3M, to be added into a new category, Fisheries Emergency Assistance.

#### **MOTION DIES LACK OF A SECOND.**

BRENDA supports getting money out to constituents, as soon as possible.

PAUL will support even though he disagrees with portions of it and has concern about public involvement and fisheries.

Mayor Osterback said when we considered the \$2.3M for a stimulus grant program, we felt to be fair we needed to figure out a formula to benefit everyone. When divided out, it is not that much. We felt to better serve the people of the AEB was to help out on household bills. Paperwork required will provide checks and balances for funds and to get out to the residents as fast as we can and fairly as we can. The fishermen will also benefit on an even basis with everyone else. The government has programs for vessel owners and we are trying to fill in the gaps not to make anyone financially whole.

DENISE said she agrees and is in full support for community members and there are programs out there for fishermen not accessible to community members. She supports moving forward, as quick as possible.

DAILEY supports what is before the Assembly. There are other programs for fishermen. What is lacking is help for fishermen to find and apply for what is available. Mayor Osterback said Laura Tanis and Natural Resources Dept has provided information and links to websites, including KSDP interviews on programs fishermen can apply to.

CHRIS said fishermen can also apply for the stimulus funding and feels this will benefit all AEB residents.

JOSEPHINE supports allocation in Attachment A, but would like further discussion on the \$2.3M stimulus amount.

Administrator suggested a work session to review the \$2.3M Emergency Assistance & Economic Stimulus Program process.

No further discussion.

**ROLL CALL ON MAIN MOTION**

YEAS: Warren, Carol, Paul, Josephine, Denise, Chris, Brenda. Advisory: Samantha, Dailey.

NAY: None

**MOTION CARRIED**

Resolution 21-11, authorizing the issuance of a General Obligation Refunding Bond of the Borough to Refund All of a Portion of the Principal Installments of an Outstanding General Obligation Bond of the Borough; Authorizing the Execution of Certain Documents in Accordance Therewith; and Pledging the Full Faith and Credit of the Borough to the Payment Thereof.

**MOTION**

CHRIS moved to approve Resolution 21-11 and second by CAROL.

Administrator said the AEB issued the 2010 Series B in 2010 GO Bond through the Alaska Municipal Bond Bank Authority (AMBBA) for Akutan Airport.

AMBBA is recommending refunding the 2010B Series Three Bond with estimated savings of \$200,000. The estimated savings amount might change between now and closing date and AEB will have the option to not move forward. Recommend approval.

**ROLL CALL**

YEAS: Carol, Paul, Josephine, Chris, Denise, Warren. Advisory: Samantha (lost Brenda and Dailey)

NAY: None.

**MOTION CARRIED**

**OLD BUSINESS**

Cod Fishery Update:

Ernie Weiss said NMFS surveys are done in odd years. 2017 surveys showed Gulf of Alaska Pacific cod decreased in biomass, so Total Allowable Catch (TAC) decreased by 80%. Requested the Governor to declare a federal cod fisheries disaster. The comment period ends tomorrow on proposed disaster money distribution plan, which is different from AEB recommendation.

2019 the TAC improved slightly. Federal government shut down had impacted surveys and Shumagin sections were cancelled in 2019. Analyst then projected that cod biomass was not enough to support a federal cod fishery but kept enough for a State cod fishery and bycatch. In February, the Assembly adopted a resolution requesting a 2020 Pacific cod disaster but have not gotten a response from State yet. Fishing has been good in the State cod fisheries. In June the Alaska Fisheries Science Center canceled 5 of the 6 surveys due to Covid-19, keeping only the long line survey. We expect 2021 surveys to include three vessels for the Gulf.

Groundfish Plan Team meeting in September, November; NPFMC meetings, in October and December.

Weiss suggested a letter, due tomorrow, reiterating AEB recommendation on cod disaster funding distribution plan.

Charlotte Levy said the existing stock assessments data may roll over to the new year with similar cod allocation to this year. However, the long line survey data will contribute to the stock assessment, which could get us a little more or shut down the federal cod fishery again.

PAUL said since deadline for comments is tomorrow suggested a final comment letter on the proposed distribution plan for the 2018 Gulf of Alaska Pacific cod fishery disaster funding. Their proposed distribution has 30% for research and we suggested 10%; they suggest 40% for harvesters and we suggested 55%.

### **MOTION**

PAUL moved that the Assembly direct the Mayor on behalf of the Assembly and residents to reiterate the points we made in previous resolution on proposed distribution plan. Second by CAROL.

### **HEARING NO OBJECTIONS, MOTION PASSED**

#### **Chignik Salmon Disaster:**

PAUL feels AEB should be included in the Chignik Sockeye salmon fishery disaster declaration. Kodiak gets 15% of Chignik salmon fishery allocation and AEB gets around 7%, so if a disaster both other areas also suffer. Feels it should incorporate Cape Igvak and Southeastern District Mainland (SEDM) fishermen and supports a letter being sent to reconsider the distribution plan to include all fishermen impacted by this fishery disaster declaration.

Mayor Osterback asked if any of the Assembly oppose a letter. We participate at certain harvest percentages and they should also consider dispersing the funds at those percentages. Hearing no opposition, Weiss will follow through with a letter.

### **NEW BUSINESS**

#### **Cold Bay Terminal Operations:**

Administrator said memo in packet is in response to Assembly Member Babcock's July 29<sup>th</sup> letter. The Borough resident's quality of life, health and safe and the ability to travel in the region is the utmost importance to us. In a matter of months, we have made massive tenant improvements to the terminal; have entered into three sublease contracts with airlines; have adjusted terminal layout to accommodate TSA; continue to deal with the challenges Ravn bankruptcy has created; and have made operational changes due to Covid-19 pandemic.

We are working on a solution that will satisfy itinerant air carriers (charter services) needs while staying within our legal confines. AEB has a land lease with the State of Alaska and per the lease is unable to assign, sublet, grant any use to any entity without the State consent.

We have subleases with Grant Aviation, Alaska Airlines and Corvus Airlines (Ravn). Corvus has not operated in facility and have an outstanding balance due. Mayor talked to New Ravn and they are planning to operate out of the terminal but status of sublease is still being discussed.

Passengers are required to pass through TSA for screening. Per TSA, a law enforcement officer travels to Cold Bay and is stationed at check point while screening occurs.

Long term is to have TSA equipment on site to expedite the screening process and process passengers quicker. We are still reviewing building layouts to accommodate TSA and to make sure there is usable space for all other airlines and passengers during the days TSA is not operating. Security goes into play 30 minutes before and 30 minutes after an Alaska Airlines flight. TSA is also requiring re-keying areas of security.

There are numerous itinerant air carriers in the region. AEB included charter services in discussions at the very beginning about subleasing in facility and none of them responded with interest in leasing space.

In the process of drafting a permit or similar document that will need State and Assembly approval. However, until an agreement is in place, itinerant air carrier passengers must use front entrance unless they make other arrangements with the signatory air carriers. Alaska Airlines, head of operations, confirmed they are willing to transport Alaska Airlines passengers with disabilities, but no access will be granted on ramp to anyone other than Alaska Airlines passengers arriving and departing.

Another option is for carriers to work with DOT/PF to transport passengers by vehicle. Long term is to get permit type document in place; or install a man-door closer to terminal for easier access to front door, to be discussed with TSA and DOT/PF first; or charter services sublease similar to existing airline tenants.

Covid-19 precautions taken is requesting masks be used in terminal; custodian is contracted to deep clean nightly and to do any other necessary cleaning; disinfectant sprayer ordered; purchased PPE equipment, hand sanitizer, cleaning supplies; and using paper towel dispensers instead of electronic hand dryers, to prevent spread of virus in air flow.

A sublease amendment through state to allow concessions in terminal is in a 30-day public notice period, posted August 6. Once that is complete, it will go out to bid for vending machines, and things of that nature.

#### **Strategic Planning Process Discussion:**

Administrator said in 2017 the AEB has hired Professional Growth Systems to provide strategic planning services. Funds appropriated in the budget to continue beginning March 2021-February 2022. Due to Covid-19 we won't do a formal meeting. Cost is \$46,000. Requested direction on whether to move forward with planning.

After a discussion, the AEB will move forward with a virtual/teleconference strategic planning session.

#### **Declaration of Disaster with requests for State Assistance:**

Declaration of Disaster is in response to the 7.8M earthquake on July 21, 2020. There was some visible damage to City of Sand Point waterfront infrastructure and also Cold Bay city dock. Other impacts may have not been reported to us yet so this disaster declaration would encompass the entire AEB.

**MOTION**

CHRIS moved to approve the Disaster Declaration, second by DENISE.

CHRIS noted a section on a road in Cold Bay that may have had some earthquake damage.

**ROLL CALL**

YEAS: Denise, Warren, Carol, Josephine, Paul, Chris, Brenda. Advisory: Samantha, Dailey

NAY: None.

**MOTION CARRIED**

**Procedures Handled by E-mail:**

PAUL felt the e-mail sent to the Assembly was trying to circumvent an Executive Session not allowing Assembly input. He expressed his concern of having no Assembly opportunity to provide input and is not sure what the procedure is of e-mail informing us of what is going on and how it fits in with the Open Meetings Act, and the direction the Assembly is supposed to provide.

Mayor Osterback said we are operating in the parameters that the Assembly set. If there is any changes in the amount authorized by the Assembly, it would come back before the Assembly. He did have a conversation with the AEB attorney and it is possible for us to have an executive session telephonically or by video. If you feel an executive session is needed the Assembly can take action in the form of a motion and administration will figure out how to carry it out. At this time, nothing is being done as it is tied up in court and does not see a reason to call for one. If you feel we need one, it is the Assembly call.

PAUL said things might not have changed monetarily to budget items but there is also direction for staff and legal help to refer back to us from time to time. He recommends an Executive Session even if for an update on our position.

Mayor said if we had anything to bring forward we would, but Assembly has the right if they feel staff is not doing what they are directed to do.

**Telecommunications:**

Mayor Osterback said there was no direction as to where you want to go with this agenda item. We have talked to the carriers providing services out here, including GCI office in Washington D.C., on problems we are having out here, with no response.

CHRIS said services are poor all over the region and dealing with customer service is frustrating. Once the carrier lost FCC funding, cellular quality declined. He suggested drafting a resolution as to how disgusted we are with services.

PAUL suggested AT&T, GCI and Interior be placed on our next agenda and invite them to attend.

JOSEPHINE supports inviting them, but pointed out that we have had them at our Strategic Planning meetings to provide information on service upgrades being planned, which are not getting carried out.

DAILEY noted Cold Bay's poor cell service also.

Mayor Osterback will do an invite to the next Assembly meeting.

## REPORTS AND UPDATES

### **Administrator's Report in packet. Highlights below:**

#### Covid-19 Update:

Six Covid-19 positive cases in the AEB.

CARES Act funding has been approved.

AEB Employee policy still in place and extended until Sept 30.

Continue to post on Facebook and website, and host weekly meetings with the communities and Eastern Aleutian Tribes.

#### King Cove Road Update:

U.S. Secretary of Interior still considering an appeal to the 9<sup>th</sup> Circuit Court of Appeals. State of Alaska and King Cove Corporation may also file an appeal if the Secretary does not do so.

#### King Cove Delta Creek Erosion Reconnaissance Project:

In March, project delayed due to Covid-19. July 22, AEB executed a revised scope of work for the project to include a charter plane from Anchorage to King Cove to complete work with more field staff and shorter field time, without having to go into town. DOWL completed the work August 7. The increased cost to be included in the CARES Act funding.

#### False Pass Harbor Litigation:

June 29 the house passed the WRDA bill, but unfortunately, it did not include the language that waives the Borough's cost-share for legal damages from litigation between Army Corps and Kelly-Ryan on False Pass Harbor Project. Other possibilities in the works.

#### School Bond Harbor Bond Debt Reimbursement:

Sent letter to Governor advocating to reinstate the bond reimbursements to municipalities.

### **Assistant Administrator Report in packet. Highlights below:**

#### False Pass Harbor House:

Design and revised cost estimate completed, bringing costs down to anticipated amount.

#### Cold Bay Clinic:

DOT has issued building permit for the clinic. Bid document for construction going out in October, which will include Covid-19 considerations in bid documents.

PAUL asked if there is a utility costs plan included, and if so requested it be sent to the Assembly. Tesche will look into send what she finds.

### **Communications Director Report in packet. Highlights below:**

#### Essential Air Service (EAS):

Letter to USDOT on continuation of EAS funding for communities that currently have it, and requesting EAS for communities that don't, for instance , Cold Bay and Sand Point.

E-News:

Fish News and In-the-Loop continue to go out.

KSDP Radio Interviews:

Resource Director, Ernie Weiss set up interviews. First interview was ADF&G, Commissioner Doug Vincent-Lang and Deputy Commissioner Rachel Baker discussed how \$50M in fisheries relief CARES Act funding will be distributed.

Small Business Administration District Director John Veal discussed the Paycheck Protection Program And how fishermen can apply.

FY20 Annual Report:

Working on report to go out to box holders.

**Natural Resources Director Report in packet. Highlights below:**

Disaster Relief:

Links to COVID-19 related relief programs, available to fishermen, are in the report.

Alaska DCCED expanded a relief grant program, AK CARES Grant Program that became available to eligible fishermen August 6.

Board of Fisheries:

Last day to submit an agenda change request to be considered at the October Work Session.

Board of Fisheries is seeking comments by survey as to whether the Board 2020/2021 meeting cycle should include in –person meeting or virtual meeting.

NPFMC:

All meetings are virtual.

Received a proposal from a fishermen to possibly create a Western Gulf of Alaska allocation of Pollock, for smaller boats. If no objection, will pursue further.

BSAI Crab Discussion:

Right of First Refusal (ROFR) issue has come up, reviewed in report. Bristol Bay Red King Crab and Eastern Bering Sea Snow crab together have been about 18% of total fish tax revenue. All crab approximately 24% of fish tax revenue.

PAUL said some communities including Cordova declared a disaster area for salmon this year, are we considering the same. Weiss said some fishermen have suggested that and would be a direction from Assembly or Mayor. Mayor Osterback asked if we have enough numbers to know whether we can declare a disaster and requested Weiss to look into.

**Assistant Natural Resources Director Report in packet. Highlights below:**

WGA1 Electronic Monitoring (EM) Program:

Closed out the WGA1 project. Did an analysis on EM vs. person observer data on hauls that overlapped for comparison. EM provides 100% monitoring and onboard observers, 30%; more data coming through with EM than we would get with observers; EM is able to monitor larger discard events producing data as reliable as observer; and observer vs. EM, cost is close. Data is as reliable as observer data. Money well spent and soon to hopefully move into an EM program, which will be more cost effective.

WGA2 Electronic Monitoring (EM) Program:

First round of NFWF reports, link in packet. Trying to find ways to cut cost for fishermen, they pay a large fee for observers. This year trialing EM in plants to save on costs of observers in plants. Also implementing a machine learning system of counting and speciating of salmon. Due to Covid-19, working on an increased budget amendment for increased costs of observer holdover.

Silver Bay Seafoods will not be operating in False Pass this fall season.

Fishermen's Data Portal:

In report is image of actual road map of data portal itself giving an idea of flow of data to eventually become acceptable to fishermen. An example of salmon bycatch map, in packet, to show where fishermen can avoid, to keep fishing open longer.

**ASSEMBLY COMMENTS**

WARREN said, in regards to Covid-19, he has concerns about the schools opening up and hopes a plan is in place for protection. Mayor Osterback said they had a school board meeting recently and have set up a program to address the safety concerns.

**Mayor's Comments:**

Mayor Osterback said we held off on projects due to Covid-19. Projects are King Cove School repairs, Nelson Lagoon dock repairs, and building the new Cold Bay Clinic. We are trying to figure out how to do these projects safely. If we get the federal MARAD funding for the two shovel ready boat harbor projects, we will be starting up those projects. We hope to start reconnaissance work on Akun dock and breakwater. A lot of work ahead along with the delayed projects.

**PUBLIC COMMENTS**

City of Sand Point Administrator, Jordan Keeler, said the City of Sand Point also intends to pass a Declaration of Disaster due to the earthquake, during their re-scheduled Council meeting for Friday.

**NEXT MEETING DATE**

September 10, 2020.

**ADJOURNMENT**

DENISE moved to adjourn and second by JOSEPHINE. Hearing no more, the meeting adjourned at 5:34 p.m.

---

Mayor Alvin D. Osterback

---

Tina Anderson, Clerk

Date: \_\_\_\_\_

# Financial Report

No July Financial Report  
at this time.

# INVESTMENT REPORT

# ALEUTIANS EAST BOROUGH

Account Statement - Period Ending July 31, 2020

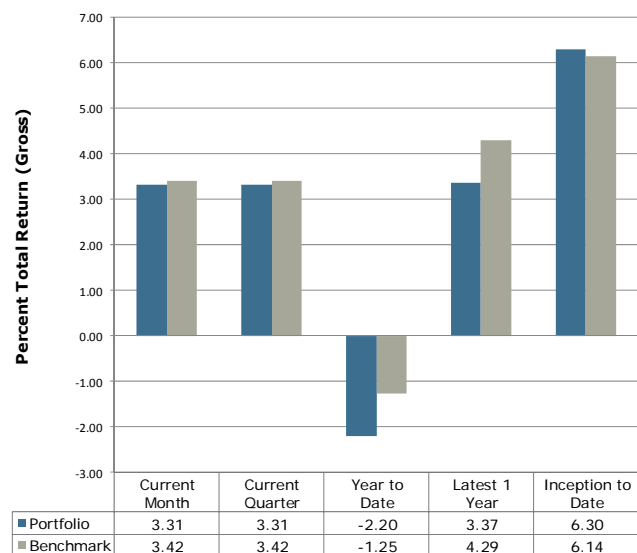


## ACCOUNT ACTIVITY

Portfolio Value on 06-30-20	39,789,755
Contributions	0
Withdrawals	-1,107
Change in Market Value	1,302,552
Interest	15,490
Dividends	0
Portfolio Value on 07-31-20	41,106,690

## INVESTMENT PERFORMANCE

**Current Account Benchmark:  
Equity Blend**

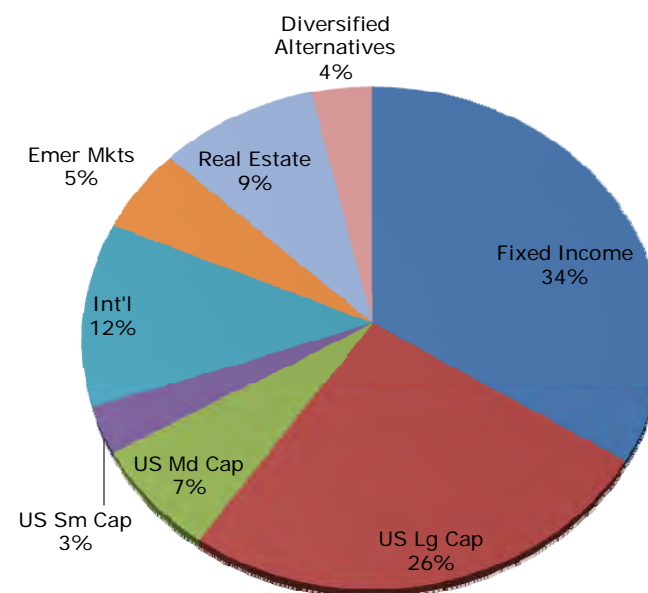


Performance is Annualized for Periods Greater than One Year

## MANAGEMENT TEAM

Client Relationship Manager:	Amber Frizzell, AIF® Amber@apcm.net
Your Portfolio Manager:	Brandy Niclai, CFA®
Contact Phone Number:	907/272 -7575

## PORTFOLIO COMPOSITION



Clients are encouraged to compare this report with the official statement from their custodian.

Alaska Permanent Capital Management Co.  
**PORTFOLIO SUMMARY AND TARGET**  
**ALEUTIANS EAST BOROUGH**  
*July 31, 2020*

Asset Class & Target	Market Value	% Assets	Range
<b>FIXED INCOME (34%)</b>			
US Fixed Income (19.0%)	7,843,130	19.1	10% to 30%
TIPS (10.0%)	3,966,406	9.6	0% to 15%
Cash (5.0%)	2,169,245	5.3	0% to 10%
<b>Subtotal:</b>	<b>13,978,781</b>	<b>34.0</b>	
<b>EQUITY (51%)</b>			
US Large Cap (24.0%)	10,487,737	25.5	18% to 30%
US Mid Cap (7.0%)	2,887,493	7.0	2% to 12%
US Small Cap (3.0%)	1,263,977	3.1	0% to 6%
Developed International Equity (12.0%)	4,881,759	11.9	6% to 18%
Emerging Markets (5.0%)	2,244,214	5.5	0% to 10%
<b>Subtotal:</b>	<b>21,765,181</b>	<b>52.9</b>	
<b>ALTERNATIVE INVESTMENTS (15%)</b>			
Real Estate (5.0%)	1,870,477	4.6	0% to 10%
Infrastructure (5.0%)	2,008,818	4.9	0% to 10%
Commodities (5.0%)	1,483,434	3.6	0% to 10%
<b>Subtotal:</b>	<b>5,362,728</b>	<b>13.0</b>	
<b>TOTAL PORTFOLIO</b>	<b>41,106,690</b>	<b>100</b>	

# AEB OPERATING FUND

Account Statement - Period Ending July 31, 2020



## ACCOUNT ACTIVITY

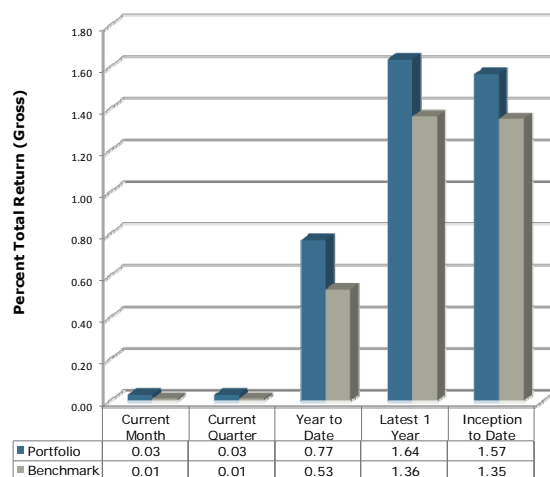
Portfolio Value on 06-30-20	2,672,227
Contributions	0
Withdrawals	-201
Change in Market Value	-299
Interest	1,116
Dividends	0
Portfolio Value on 07-31-20	2,672,843

## MANAGEMENT TEAM

Client Relationship Manager:	Amber Frizzell, AIF® Amber@apcm.net
Your Portfolio Manager:	Paul Hanson, CFA®
Contact Phone Number:	907/272 -7575

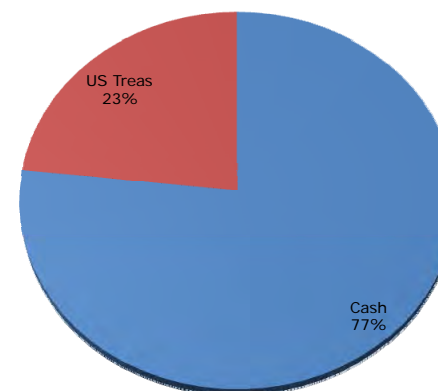
## INVESTMENT PERFORMANCE

Current Account Benchmark:  
FTSE 3-Month TBill



Performance is Annualized for Periods Greater than One Year

## PORTFOLIO COMPOSITION



### Fixed Income Portfolio Statistics

Average Quality: AAA Yield to Maturity: 0.12% Average Maturity: 0.29 Yrs

Alaska Permanent Capital Management Co.  
**PORTFOLIO APPRAISAL**  
**AEB OPERATING FUND**  
*July 31, 2020*

Quantity	Security	Average Cost	Total Average Cost	Price	Market Value	Pct. Assets	Annual Income	Accrued Interest	Yield to Maturity
<b>U.S. TREASURY</b>									
245,000	US TREASURY NOTES 1.500% Due 08-15-20	99.75	244,378	100.05	245,113	9.17	3,675	1,696	0.38
375,000	US TREASURY NOTES 1.750% Due 11-15-20	100.11	375,410	100.46	376,725	14.09	6,562	1,391	0.17
	Accrued Interest				3,087	0.12			
			619,788		624,925	23.38		3,087	
<b>TREASURY BILLS</b>									
300,000	US TREASURY BILLS 0.000% Due 09-24-20	99.95	299,848	99.99	299,958	11.22	NA	0	0.09
300,000	US TREASURY BILLS 0.000% Due 10-15-20	99.94	299,811	99.98	299,937	11.22	NA	0	0.10
300,000	US TREASURY BILLS 0.000% Due 11-12-20	99.92	299,769	99.97	299,913	11.22	NA	0	0.10
460,000	US TREASURY BILLS 0.000% Due 12-01-20	99.93	459,685	99.97	459,862	17.20	NA	0	0.09
375,000	CASH MANAGEMENT BILL 0.000% Due 12-22-20	99.94	374,767	99.96	374,854	14.02	NA	0	0.10
300,000	US TREASURY BILLS 0.000% Due 02-25-21	99.87	299,598	99.94	299,811	11.22	NA	0	0.11
			2,033,479		2,034,335	76.11		0	
<b>CASH AND EQUIVALENTS</b>									
	FEDERATED GOVERNMENT OBLIGATIONS INSTITUTI		13,583		13,583	0.51			
<b>TOTAL PORTFOLIO</b>			<b>2,666,850</b>		<b>2,672,843</b>	<b>100</b>	<b>10,237</b>	<b>3,087</b>	

# ALEUTIANS EAST BOROUGH SERIES E BOND

Account Statement - Period Ending July 31, 2020



## ACCOUNT ACTIVITY

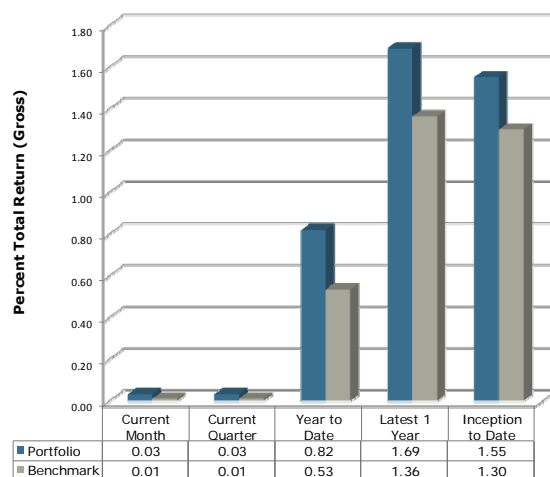
Portfolio Value on 06-30-20	2,609,523
Contributions	0
Withdrawals	-416
Change in Market Value	-346
Interest	1,200
Dividends	0
Portfolio Value on 07-31-20	2,609,961

## MANAGEMENT TEAM

Client Relationship Manager:	Amber Frizzell, AIF® Amber@apcm.net
Your Portfolio Manager:	Paul Hanson, CFA®
Contact Phone Number:	907/272 -7575

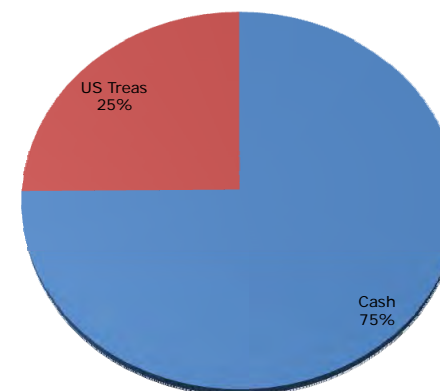
## INVESTMENT PERFORMANCE

Current Account Benchmark:  
FTSE 3-Month TBill



Performance is Annualized for Periods Greater than One Year

## PORTFOLIO COMPOSITION



### Fixed Income Portfolio Statistics

Average Quality: AAA Yield to Maturity: 0.12% Average Maturity: 0.30 Yrs

Alaska Permanent Capital Management Co.  
**PORTFOLIO APPRAISAL**  
**ALEUTIANS EAST BOROUGH SERIES E BOND**  
*July 31, 2020*

Quantity	Security	Average Cost	Total Average Cost	Price	Market Value	Pct. Assets	Annual Income	Accrued Interest	Yield to Maturity
<b>U.S. TREASURY</b>									
250,000	US TREASURY NOTES 1.500% Due 08-15-20	99.75	249,365	100.05	250,115	9.58	3,750	1,731	0.38
400,000	US TREASURY NOTES 1.875% Due 12-15-20	100.23	400,922	100.66	402,656	15.43	7,500	963	0.10
	Accrued Interest				2,694	0.10			
			650,287		655,465	25.11		2,694	
<b>TREASURY BILLS</b>									
300,000	US TREASURY BILLS 0.000% Due 09-24-20	99.95	299,848	99.99	299,958	11.49	NA	0	0.09
300,000	US TREASURY BILLS 0.000% Due 10-15-20	99.94	299,811	99.98	299,937	11.49	NA	0	0.10
300,000	US TREASURY BILLS 0.000% Due 11-12-20	99.92	299,769	99.97	299,913	11.49	NA	0	0.10
370,000	US TREASURY BILLS 0.000% Due 12-01-20	99.93	369,747	99.97	369,889	14.17	NA	0	0.09
375,000	CASH MANAGEMENT BILL 0.000% Due 12-22-20	99.94	374,767	99.96	374,854	14.36	NA	0	0.10
300,000	US TREASURY BILLS 0.000% Due 02-25-21	99.87	299,598	99.94	299,811	11.49	NA	0	0.11
			1,943,540		1,944,362	74.50		0	
<b>CASH AND EQUIVALENTS</b>									
	FEDERATED GOVERNMENT OBLIGATIONS INSTITUTI		10,134		10,134	0.39			
<b>TOTAL PORTFOLIO</b>			<b>2,603,961</b>		<b>2,609,961</b>	<b>100</b>	<b>11,250</b>	<b>2,694</b>	

\* Callable security

Alaska Permanent Capital Management Co.  
**TRANSACTION SUMMARY**  
***ALEUTIANS EAST BOROUGH SERIES E BOND***  
*From 07-01-20 To 07-31-20*

Trade Date	Settle Date	Security	Quantity	Trade Amount
<b>PURCHASES</b>				
TREASURY BILLS				
07-15-20	07-21-20	CASH MANAGEMENT BILL 0.000% Due 12-22-20	375,000	374,767.40
				<b>374,767.40</b>
<b>DEPOSITS AND EXPENSES</b>				
MANAGEMENT FEES				
07-31-20	07-31-20	MANAGEMENT FEES		372.07
				<b>372.07</b>
<b>INTEREST</b>				
CASH AND EQUIVALENTS				
07-01-20	07-01-20	FEDERATED GOVERNMENT OBLIGATIONS INSTITUTI		28.82
U.S. TREASURY				
07-15-20	07-15-20	US TREASURY NOTES 1.500% Due 07-15-20		2,812.50
				<b>2,841.32</b>
<b>SALES, MATURITIES, AND CALLS</b>				
U.S. TREASURY				
07-15-20	07-15-20	US TREASURY NOTES 1.500% Due 07-15-20	375,000	375,000.00
				<b>375,000.00</b>

\* Callable security

# AEB 2010 SERIES B BOND/AKUTAN AIR

Account Statement - Period Ending July 31, 2020



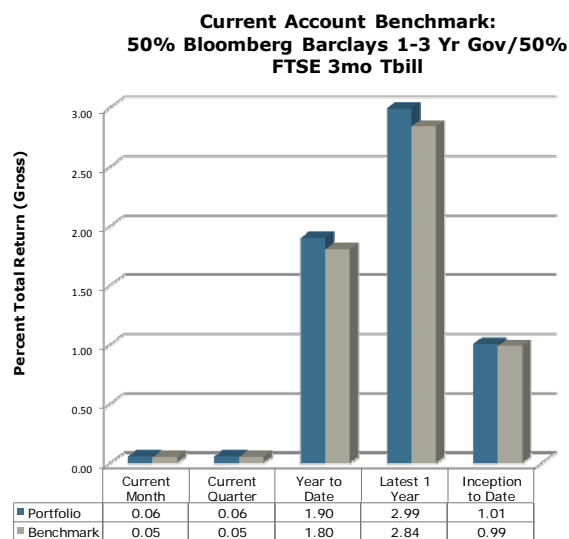
## ACCOUNT ACTIVITY

Portfolio Value on 06-30-20	1,073,406
Contributions	0
Withdrawals	-75
Change in Market Value	-261
Interest	870
Dividends	0
Portfolio Value on 07-31-20	1,073,940

## MANAGEMENT TEAM

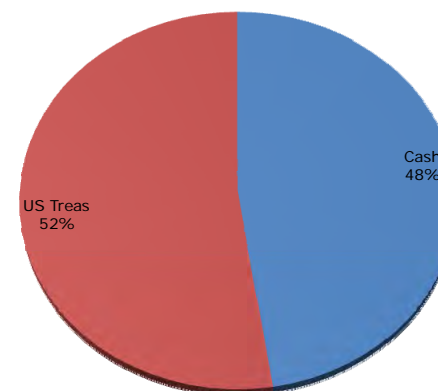
Client Relationship Manager:	Amber Frizzell, AIF® Amber@apcm.net
Your Portfolio Manager:	Paul Hanson, CFA®
Contact Phone Number:	907/272-7575

## INVESTMENT PERFORMANCE



Performance is Annualized for Periods Greater than One Year

## PORTFOLIO COMPOSITION



## Fixed Income Portfolio Statistics

Average Quality: AAA Yield to Maturity: 0.11% Average Maturity: 0.90 Yrs

Alaska Permanent Capital Management Co.  
**PORTFOLIO APPRAISAL**  
**AEB 2010 SERIES B BOND/AKUTAN AIR**  
*July 31, 2020*

Quantity	Security	Average Cost	Total Average Cost	Price	Market Value	Pct. Assets	Annual Income	Accrued Interest	Yield to Maturity
<b>U.S. TREASURY</b>									
80,000	US TREASURY NOTES 1.375% Due 04-30-21	98.31	78,650	100.92	80,738	7.52	1,100	278	0.14
60,000	US TREASURY NOTES 1.500% Due 08-31-21	99.80	59,883	101.48	60,886	5.67	900	377	0.14
65,000	US TREASURY NOTES 2.000% Due 02-15-22	99.10	64,413	102.86	66,861	6.23	1,300	600	0.14
75,000	U.S. TREASURY NOTE 1.875% Due 02-28-22	98.66	73,998	102.76	77,068	7.18	1,406	588	0.13
125,000	US TREASURY NOTES 2.250% Due 04-15-22	99.83	124,787	103.61	129,507	12.06	2,812	830	0.14
85,000	US TREASURY NOTES 1.875% Due 07-31-22	100.10	85,083	103.49	87,968	8.19	1,594	4	0.13
55,000	US TREASURY NOTES 1.750% Due 01-31-23	100.43	55,234	104.06	57,235	5.33	962	3	0.12
	Accrued Interest				2,680	0.25			
			542,048		562,944	52.42		2,680	
<b>TREASURY BILLS</b>									
505,000	CASH MANAGEMENT BILLS 0.000% Due 09-22-20	99.96	504,781	99.99	504,929	47.02	NA	0	0.10
<b>CASH AND EQUIVALENTS</b>									
	FEDERATED GOVERNMENT OBLIGATIONS INSTITUTI		6,067		6,067	0.56			
<b>TOTAL PORTFOLIO</b>			<b>1,052,896</b>		<b>1,073,940</b>	<b>100</b>	<b>10,075</b>	<b>2,680</b>	

# Consent Agenda

## RESOLUTION 21-14

A RESOLUTION OF THE ALEUTIANS EAST BOROUGH APPOINTING ELECTION JUDGES FOR THE OCTOBER 6, 2020 REGULAR BOROUGH ELECTION.

WHEREAS, the borough regular election will be held on October 6, 2020, and

WHEREAS, the Aleutians East Borough Code, Section 4.08.020 requires that the Assembly appoint three election judges from each designated polling place, and

WHEREAS, the borough clerk has recommended the following names to the Assembly to serve in this capacity:

### SAND POINT

Robin Kenezuroff	Head Judge
Beverly Johansen	Judge
Amber Nicholi	Judge

### KING COVE

Kimberly Newman	Head Judge
Diana Kuzakin	Judge
Shannel Newman	Judge
Summer Mack	Judge

### AKUTAN

Amanda Tcheripanoff	Head Judge
Alice Tcheripanoff	Judge
April Pelkey	Judge

NOW THEREFORE BE IT RESOLVED by the Assembly of the Aleutians East Borough:

1. The above list of persons are appointed to serve as election judges in the October 6, 2020 election.

*Resolution*

2. They shall serve under the direction of the borough clerk to conduct the election in a proper manner.

3. Should they be unable to fulfill their duties on election day an alternative shall be named by the borough clerk.

4. They shall be compensated at the rate of \$200.00 per day worked.

APPROVED this 10<sup>th</sup> day of September, 2020.

---

Mayor

ATTEST:

---

Clerk

RESOLUTION 21-15

A RESOLUTION OF THE ALEUTIANS EAST BOROUGH APPOINTING THE CANVASS COMMITTEE FOR THE OCTOBER 6, 2020 REGULAR BOROUGH ELECTION.

WHEREAS, the borough regular election will be held on October 6, 2020, and

WHEREAS, the Aleutians East Borough Code, Section 4.08.040 requires that the Assembly appoint a canvass committee to canvass all votes after the election judges tally, and

WHEREAS, the borough clerk has recommended the following names to the Assembly to serve in this capacity:

Robin Kenezuroff	Head Judge
Beverly Johansen	Judge
Amber Nicholi	Judge

NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE ALEUTIANS EAST BOROUGH:

1. The above list of persons is appointed to serve as the Canvass Committee for the October 6, 2020 election.
2. They shall serve under the direction of the borough clerk to conduct the canvass in a timely and proper manner.
3. Should they be unable to fulfill their duties an alternative shall be named by the borough clerk.
4. They shall be compensated at the rate of \$50.00 per day worked.

Approved this 10<sup>th</sup> day of September, 2020.

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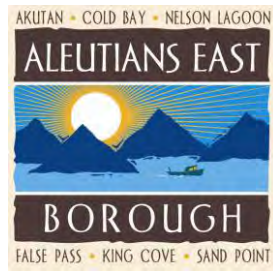
Mayor

ATTEST:

---

Clerk

# Public Hearings



## MEMO

To: Mayor Osterback and Assembly  
From: Tina Anderson, Clerk  
Date: August 4, 2020  
Re: Ordinance 21-03, Amending AEB Code Title 4, Elections

---

Ordinance 21-03, if approved, will amend AEB Code Title 4, Elections to add a provision to allow early voting 15 days prior to the election. Early voters will sign an early voter register, without having to complete the absentee-in-person form. This will increase voter accessibility prior to Election Day, and provide better social distancing and protecting the public health, during this pandemic.

Ordinance 21-03 will also allow the clerk to appoint persons age 16 and older as additional election officials if they meet the requirements to serve the Youth Vote Ambassador Program under AS 15.10.108, serving under the supervision of the election chairperson.

### AS 15.10.108. Youth Vote Ambassador Program.

- Must be a high school student in good standing in a public, private or qualified home school program, at least 16 years old and a U.S. citizen.
- Must be willing to work on Election Day.
- Must be willing to remain non-partisan on Election Day and NOT express any political opinions while on the job.
- Must have written permission from a parent or legal guardian.
- Cannot have a familial relationship with a candidate on the ballot.

## ORDINANCE 21-03

### AN ORDINANCE OF THE ALEUTIANS EAST BOROUGH ASSEMBLY AMENDING TITLE 4 ELECTIONS TO ADD PROVISIONS FOR INCREASED VOTER ACCESSIBILITY

**WHEREAS**, provisions for early voting will add a convenience to Borough voters to allow voting in person 15 days prior to the election with proof of identification and signing an early voter register, and without having to complete the absentee-in-person form; and

**WHEREAS**, Alaska Statutes authorize youth vote ambassadors who meet the qualifications to serve on an election board or as election officials; and

**WHEREAS**, the changes in this ordinance allow for increased accessibility to Borough voters, and as such, is in the best interest of the Borough; and

**WHEREAS**, spreading out the voter turnout over several days makes social distancing a lot easier, preventing the spread of Covid-19.

**NOW, THEREFORE, BE IT ENACTED BY THE ASSEMBLY OF THE ALEUTIANS EAST BOROUGH:**

**Section 1.** Chapter 4.08.020 Election Judges and Clerks is hereby amended to read as follows:

(a) Before each borough election, the assembly shall appoint at least three judges for each precinct polling place and auxiliary polling place to constitute the election board for that polling place. For each polling place, the first person appointed by the assembly shall be the chair person for that board unless a different person is specifically designated by the assembly as the chair of that election board. The chair of the election board shall be primarily responsible for administering the election at that precinct polling place. The assembly may appoint two additional persons as election clerks for each precinct polling place. Two judges on each election board may also serve as election clerks. The borough clerk may appoint up to three additional election clerks at any polling place where necessary to facilitate the orderly conduct of the election or to relieve the judges or clerks of undue hardship.

(b) Each judge or clerk must be a qualified voter of the borough and of the precinct for which appointed unless the clerk or assembly is unable to find a voter willing to serve. The clerk may appoint persons aged 16 or older as additional election officials if they substantially meet the requirements to serve in the Youth Vote Ambassador Program under AS 15.10.108. Any person so appointed serves under the supervision of the precinct board chair.

**Section 2.** Chapter 4.32 “Absentee Voting” is hereby retitled “Absentee and Early Voting” and amended to read as follows:

**4.32.040 Determination of Right by Clerk.**

Before delivering a ballot, the borough clerk must be satisfied that the applicant has a right to an absentee or early voting ballot, pursuant to section 4.32.010.

**4.32.101 Early Voting.**

- A. Early voting before an election official shall not begin prior to fifteen (15) days before a regular or special election. A qualified voter may apply in person for an early voting ballot at the office of the borough clerk or the voter may apply at the city clerk’s office or in a location at places and times determined by the borough clerk.
- B. Prior to the election, the clerk or assistant clerk shall mark the precinct register of those voters who voted early or give to the election board in each precinct a list of voters from the precinct who have voted early.
- C. Prior to the election, the clerk or assistant clerk shall mark the precinct registers of those voters who voted early to give to the election board in each precinct a list of voters who have voted early.

**Section 3.** Chapter 4.08.020 Election Judges and Clerks is hereby amended to read as follows:

**4.28.010 Canvass Committee -- Meeting - Postponing Canvass.**

The canvass committee will meet on the first Monday after the election for which they are appointed and canvass all absentee, early and questioned ballots executed in the election. The canvass may be postponed from day to day for cause by the borough clerk or the canvass committee.

**Section 4. Classification.** This ordinance shall be of permanent nature and shall become part of the Aleutians East Borough Code of Ordinances.

**Section 5. Effectiveness.** This ordinance shall become effective upon adoption.

INTRODUCED this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

ADOPTED the \_\_\_\_ day of \_\_\_\_\_, 2020.

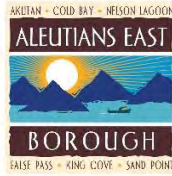
\_\_\_\_\_  
Mayor Alvin D. Osterback

ATTEST:

\_\_\_\_\_  
Tina Anderson, Clerk

**New wording is underlined and in red**

# Resolutions



## **Agenda Statement**

**Date:** September 2, 2020

**To:** Mayor Osterback and Assembly Members

**From:** Anne Bailey, Administrator

**RE:** Resolution 20-12 – Authorizing the Mayor to Negotiate and Execute Amendment No. 4 of the Co-Sponsorship Agreement with the Alaska Department of Transportation and Public Facilities and the City of Akutan

---

The Aleutians East Borough (Borough) entered into a Co-Sponsorship Agreement (CSA) with the State of Alaska, Department of Transportation and Public Facilities (DOT&PF) and the City of Akutan for the construction and operation of the Akutan Airport located on Akun Island. The CSA was approved by the Assembly with Resolution 10-08 dated January 14, 2010. The Borough has agreed to provide the link between the airport and the community for twenty (20) years. The airport was completed and ready for the use on September 1, 2012.

CSA Amendment No. 1 was approved by the Assembly on September 10, 2014 via Resolution No. 15-06. Amendment No. 1 provided for the substitution of the helicopter for the Akutan Airport link; allowed the use of funds needed to set up a fuel system in Akutan for the helicopter; removed the \$500,00 cash contribution by the City that had been budgeted for the purchase of a new hovercraft and provided for the use of funds to assess additional alternative transportation access that will reduce the current annual operational costs.

Due to the high cost to maintain and operate the helicopter operation, the Borough worked with the State of Alaska and the City of Akutan to help determine a solution to alleviate the Borough's financial burden. CSA Amendment No. 2 was approved by the Assembly on June 30, 2017 via Resolution 17-25. This allowed the use of a portion of the \$3,100,000 City of Akutan's FY2006 general fund grant, extended by re-appropriation in FY2014, to help subsidize the costs of helicopter operations, and extended the deadline provided in CSA Amendment No. 1 for investigating, and if necessary, committing to an alternative access solution as set forth in Section 5 of Amendment No. 1.

CSA Amendment No. 3 was approved by the Assembly on August 9, 2018 via Resolution 19-06. This allowed the City of Akutan to use the unused portion of the \$3,100,000 grant to fund the Akutan Boat Harbor Utility Project.

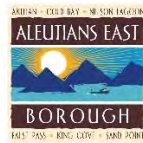
Now the US Army Corps of Engineers has recently authorized the Akutan Traditional Council (Tribe) to participate as a sponsor of the Akutan Navigational Project. Per the proposed CSA Amendment #4, the Borough and Tribe will act as project co-sponsors. The purpose of this effort is to investigate the development of a breakwater and dock on Akun Island under the Tribal Partnership Program. If this project is developed, access to the airport from Akutan will be provided by a marine vessel using these facilities. The local match or cost share requirement is projected to be \$1,016,000. Pursuant to Section 5 of Amendment #1 to the CSA, the parties agreed to use remaining project funds to pay the required match. The parties further authorize use of not more than \$200,000 for additional match or other related costs to support this effort. This amendment will also extend the deadline for the CSA to December 31, 2022.

The Borough has approximately \$5,380,330 in Non-Federal matching funds available for the local. These include \$1,006,940 in Borough Bond Funds; \$903,000 in FY2009 State GF AEB Bond Funds Match; \$313,000 FY2007 State GF Appropriation; \$657,390 Trident Seafoods Contribution and \$2,500,000 from the hovercraft sale.

#### RECOMMENDATION

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Administration recommends approval of Resolution 21-12 authorizing the Mayor to negotiate and execute Amendment No. 4 of the Co-Sponsorship Agreement with the Alaska Department of Transportation and Public Facilities and the City of Akutan.



## **RESOLUTION 12-12**

### **A RESOLUTION BY THE ALEUTIANS EAST BOROUGH ASSEMBLY AUTHORIZING THE MAYOR TO NEGOTIATE AND EXECUTE AMENDMENT NO. 4 OF THE CO-SPONSORSHIP AGREEMENT WITH THE ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES AND THE CITY OF AKUTAN**

**WHEREAS**, the Aleutians East Borough (AEB) entered into a Co-Sponsorship Agreement (CSA) in March 2010 with the State of Alaska, Department of Transportation and Public Facilities and the City of Akutan for the construction and operation of the Akutan Airport located on Akun Island; and

**WHEREAS**, the Borough agreed to provide reasonable public access between the airport and the community for twenty years; and

**WHEREAS**, on September 10, 2014 via Resolution No. 15-06 the Assembly passed CSA Amendment No. 1, which provided for the substitution of the helicopter for the Akutan Airport link; allowed the use of funds needed to set up a fuel system in Akutan for the helicopter; removed the \$500,000 cash contribution by the City that had been budgeted for the purchase of a new hovercraft and provided for the use of funds to assess additional alternative transportation access that will reduce the current annual operational costs; and

**WHEREAS**, due to the high cost to maintain and operate the helicopter operation the Borough, State of Alaska and the City of Akutan have worked to find a solution to alleviate the Borough's financial burden; and

**WHEREAS**, on June 30, 2017 via Resolution 17-25 the Assembly passed CSA Amendment No. 2, which permitted a portion of the \$3,100,000 in State funds from the City of Akutan's FY2006 general fund grant, extended by re-appropriation in FY2014, to be used to help subsidize the costs of helicopter operations, and the deadline provided in CSA Amendment No. 1 for investigating, and if necessary, committing to an alternative access solution as set forth in Section 5 of Amendment No. 1 was extended two additional years; and

**WHEREAS**, on August 9, 2018 via Resolution 19-06 the Assembly passed CSA Amendment No. 3, which permitted the City of Akutan to use the unused portion of the \$3,100,000 (approximately \$1,581,000) in State funds from the City of Akutan's general fund grant for the Akutan Boat Harbor Utility Project; and

**WHEREAS**, the US Army Corps of Engineers has recently authorized the Akutan Traditional Council (Tribe) to participate as a sponsor for the Akutan Navigational Project; and

**WHEREAS**, the Tribe and Borough will be co-sponsor for the project; and

**WHEREAS**, the purpose of this effort is to investigate the development of a breakwater and dock on Akun Island under the Tribal Partnership Program which would allow for marine vessel access between the airport on Akun Island and the community on Akutan Island; and

**WHEREAS**, the local match or cost share is projected to be \$1,016,000 and per Amendment No. 4 the parties will agree to use remaining project funds to pay the required match and further authorize use of not more than \$200,000 for additional match or other related costs to support this effort; and

**WHEREAS**, Amendment No. 4 will also extend the deadline for the CSA to December 31, 2022.

**NOW THEREFORE BE IT RESOLVED THAT** the Aleutians East Borough Assembly hereby authorizes the Mayor to negotiate and execute Amendment No. 4 of the Co-Sponsorship Agreement with the Alaska Department of Transportation and Public Facilities and the City of Akutan.

**PASSED AND APPROVED** by the Aleutians East Borough on this 10<sup>th</sup> day of September 2020.

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**Alvin D. Osterback, Mayor**

**ATTEST:**

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**Tina Anderson, Clerk**

## **Akutan Airport Co-Sponsorship Agreement Amendment #4**

The State of Alaska, Department of Transportation and Public Facilities, hereinafter called the Department, the Aleutians East Borough, hereinafter called the Borough, and the City of Akutan, hereinafter called the City, entered into the Co-Sponsorship Agreement for the Akutan Airport dated 8 February 2010, hereinafter called the Agreement.

Pursuant to Section 18 of the Agreement, the parties hereby agree to this Amendment #4 ("Amendment"), for the purpose of (1) approving use a portion of remaining project funds for the purpose of matching federal funds to investigate the engineering feasibility of constructing a breakwater and small dock on Akun Island; and (2) extending the deadline provided in previous CSA amendments for investigating, and if necessary, committing to an alternative access solution as set forth in Section 5 of Amendment #1.

### **1) Approval of Using \$1,016,000 to Investigate Airport Access Alternative**

- a) The US Army Corps of Engineers recently authorized the Akutan Traditional Council (Tribe) to participate as a sponsor of the Akutan Navigational Project. The Borough and Tribe will act as project co-sponsors. The purpose of this effort is to investigate the development of a breakwater and dock on Akun Island under the Tribal Partnership Program. If this project is developed, access to the airport from Akutan will be provided by a marine vessel using these facilities.
- b) The local match or cost share requirement is projected to be \$1,016,000. Pursuant to Section 5 of Amendment #1 to the CSA, the parties agreed to use remaining project funds to pay the required match. The parties further authorize use of not more than \$200,000 for additional match or other related costs to support this effort.

### **2) Assessment of Additional Alternatives for Airport Access**

- a) Section 5(a) of CSA Amendment #1, as amended by CSA Amendment #2, established December 31, 2019 as a deadline for the Borough to investigate potential airport access solutions. The parties hereby agree to extend the deadline provided in Section 5(a) of CSA Amendment #1, as amended by CSA Amendment #2, to December 31, 2022.

**SIGNATURES**

\_\_\_\_\_  
[City] \_\_\_\_\_ Date \_\_\_\_\_

State of Alaska  
\_\_\_\_\_ Judicial District

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Notary Public  
My Commission expires: \_\_\_\_\_

**ACKNOWLEDGMENT OF THE ASSEMBLY**  
**OR COUNCIL OF THE CITY**

Be it remembered that on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ at a regular meeting, of the \_\_\_\_\_ of \_\_\_\_\_, a City established under Alaska law, granted its approved of the foregoing instrument by Resolution \_\_\_\_\_, dated \_\_\_\_\_.

Dated: \_\_\_\_\_  
Clerk

\_\_\_\_\_  
[Borough]

\_\_\_\_\_  
Date

State of Alaska  
\_\_\_\_\_  
Judicial District

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Notary Public  
My Commission expires:\_\_\_\_\_

ACKNOWLEDGMENT OF THE ASSEMBLY OR COUNCIL OF THE BOROUGH

Be it remembered that on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ at a regular meeting, of the \_\_\_\_\_  
of \_\_\_\_\_, a Borough established under Alaska law, granted its approved of the foregoing  
instrument by Resolution \_\_\_\_\_, dated\_\_\_\_\_.

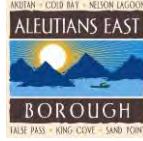
Dated: \_\_\_\_\_  
Clerk

\_\_\_\_\_  
[Alaska Department of Transportation and Public Facilities] \_\_\_\_\_ Date

State of Alaska  
\_\_\_\_\_ Judicial District

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Notary Public  
My Commission expires: \_\_\_\_\_



## Agenda Statement

Date: September 3, 2020

To: Mayor Osterback and Assembly

From: Anne Bailey, Borough Administrator

**Re: Resolution 21-13, Authorizing the Mayor to Negotiate and Execute a Tribal Partnership Program Cost Share Agreement between the Department of the Army, the Native Village of Akutan and the Aleutians East Borough for the Akun Island Navigational Improvements Tribal Partnership Feasibility Study**

The Aleutians East Borough (Borough) entered into a Co-Sponsorship Agreement (“CSA”) with the City of Akutan and the Alaska Department of Transportation and Public Facilities for the Akutan Airport in 2010. Under the agreement, the Borough committed to provide transportation between the airport on Akun Island and the community of Akutan for 20 years. The Borough operated a hovercraft from September 2012 to 2014, which proved to be cost prohibitive. The Borough discontinued the hovercraft operation in 2014 and shifted to use of a helicopter service to provide the transportation link from the airport to Akutan. In 2019, the Essential Air Service Program agreed to an EAS contract with Maritime Services that became effective in February 2019.

Efforts to look for a more cost-effective and sustainable marine transportation alternative are ongoing. The Borough believes this would involve the construction of a small wave barrier or harbor on Akun to provide safe harbor and a dock to be used to transfer passengers and cargo. The Borough and Army Corps of Engineers (Corps) initiated a study into the construction of a breakwater or other form of wave barrier on Akun pursuant to the Section 107 Small Navigation Projects Program. The cost to conduct the work exceeded the Section 107 funding parameters; therefore, in December 2019, the Borough sent a termination letter to Corps, which terminated the Akun Small Navigation Section 107 Project. After discussions with the Corps, the Tribal Partnership Program (TPP) seemed to be the best program to pursue to initiate and complete the study.

On March 2, 2020, the Akutan Tribal Council (Tribe) sent a letter and resolution to the Corps authorizing the Tribe to participate as the sponsor of the Akutan Navigation Project in partnership with the U.S. Army Corps of Engineers and to cooperatively investigate the development of a breakwater and dock at Akun, Alaska under the Tribal Partnership Program (TPP). On July 21, 2020, the Borough and Tribe were informed that the Corps had an opening to start a new study under the Tribal Partnership Program if the Tribe/Borough were willing to enter into a cost-share agreement prior to October 1, 2020. This study will be under the TPP and the estimated cost of the study is \$2,516,000. According to the Corps, the maximum Federal cost

from headquarters is \$1,500,000 (including the cost that is 100% Federal) and the matching local cost-share is \$1,016,000. The first \$484,000 of the total cost will be at 100% Federal, and all costs thereafter will be cost-shared 50% Federal /50% Non-Federal.

Studies are required to have a completed product within 3-years of the signing of the agreement, unless a waiver to the timeline is allowed. The first action of the study will be to have a charrette (a scoping meeting that includes most of the stakeholder agencies and key stakeholders) to identify the data that exists and data that needs to be gathered, what the purpose and opportunities are for the study, as well as the objectives, and constraints. This meeting has been recently performed on several studies as a virtual meeting due to travel constraints. Unless there have been many other studies performed at the site under consideration, on-site studies will be required for environmental and cultural resources determinations, as well as observations of conditions and existing conditions for design considerations. On July 23, 2020, the Borough met with the Tribe, City of Akutan representatives and the Borough's State and Federal lobbyists and all parties agree that the TPP is worth pursuing. At the August 13, 2020 Assembly Meeting, the Assembly approved Resolution 21-09 which authorized the Mayor to negotiate and execute a Memorandum of Agreement between the Borough and Akutan Tribe for the Akun Boat Harbor Study. This MOA outlines the duties and responsibilities of each sponsor with regards to the study.

In order for the project to proceed the Borough needs to enter into a TPP Cost Sharing Agreement with the Department of the Army (Army Corps) and Tribe for the Akun Island Navigational Improvements Tribal Partnership Feasibility Study (Agreement). The Agreement is attached for your reference and outlines the obligations of the parties and the payment of funds. The main areas to highlight include:

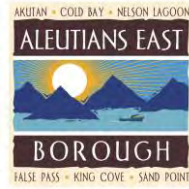
- A. The Army Corps shall conduct the Study using funds appropriated by Congress and funds provided by the Non-Federal Sponsors. The Borough and Tribe shall perform or provide any in-kind contributions in accordance with applicable Federal laws, regulations and policies.
- B. The Borough shall contribute 50 percent of shared study costs, which is projected to be \$1,016,000.

If approved, Administration will provide a letter to the Army Corps approving the Agreement and expressing the Borough's interest in moving forward with the study. The Borough will then be able to negotiate with the Army Corps and Tribe and execute the agreement and all other necessary documentation to initiate the study.

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#### RECOMMENDATION:

Administration recommends the approval of Resolution 21-13 Authorizing the Mayor to Negotiate and Execute a Tribal Partnership Program Cost Share Agreement between the Department of the Army, the Native Village of Akutan and the Aleutians East Borough for the Akun Island Navigational Improvements Tribal Partnership Feasibility Study.



## **RESOLUTION 21-13**

### **A RESOLUTION OF THE ALEUTIANS EAST BOROUGH ASSEMBLY AUTHORIZING THE MAYOR TO NEGOTIATE AND EXECUTE A TRIBAL PARTNERSHIP PROGRAM COST SHARE AGREEMENT BETWEEN THE DEPARTMENT OF ARMY, THE NATIVE VILLAGE OF AKUTAN AND THE ALEUTIANS EAST BOROUGH FOR THE AKUN ISLAND NAVIGATIONAL IMPROVEMENTS TRIBAL PARTNERSHIP FEASIBILITY STUDY**

**WHEREAS**, the Aleutians East Borough (Borough) entered into a Co-Sponsorship Agreement (“CSA”) with the City of Akutan and the Alaska Department of Transportation and Public Facilities for the Akutan Airport in 2010; and

**WHEREAS**, under the CSA, the Borough committed to provide transportation between the airport on Akun Island and the community of Akutan for 20 years; and

**WHEREAS**, the Borough has provided the transportation link since September 2012 by means of a hovercraft and helicopters; and

**WHEREAS**, efforts to look for a more cost-effective and sustainable marine transportation alternative are ongoing; and

**WHEREAS**, the Borough believes this would involve the construction of a small wave barrier or harbor on Akun to provide safe harbor and a dock to be used to transfer passengers and cargo; and

**WHEREAS**, on March 2, 2020, the Akutan Tribal Council (Tribe) sent a letter and resolution to the Corps authorizing the Tribe to participate as the sponsor of the Akutan Navigation Project in partnership with the U.S. Army Corps of Engineers and to cooperatively investigate the development of a breakwater and dock at Akun, Alaska under the Tribal Partnership Program (TPP); and

**WHEREAS**, on July 21, 2020, the Borough and Tribe were informed that the Corps had an opening to start a new study under the TPP if the Tribe/Borough were willing to enter into a cost-share agreement prior to October 1, 2020; and

**WHEREAS**, this study will be under the TPP and the estimated cost of the study is \$2,516,000; and

**WHEREAS**, the first \$484,000 will be at 100% federal cost, and all costs thereafter will be cost-shared 50% Federal (\$1,016,000)/50% Non-Federal (\$1,016,000); and

**WHEREAS**, on August 13, 2020 via Resolution 21-09 the Assembly authorized the mayor to negotiate and execute a Memorandum of Agreement (MOA) between the Aleutians East Borough and the Tribe for the Akun Harbor Boat Study; and

**WHEREAS**, per the MOA, the Tribe will be the primary sponsor and assist with the work when needed and the Borough's primary responsibilities include: 1. The Borough will take the lead on the project. 2. The Borough will pay the \$1,016,000 Non-Federal Match for the project, with funds that have been appropriated for this project; and

**WHEREAS**, in order for study to occur the Borough needs to enter into a TPP Cost Sharing Agreement with the Department of the Army (Army Corps) and the Tribe for the Akun Island Navigational Improvements Tribal Partnership Feasibility Study.

**NOW THEREFORE, BE IT RESOLVED**, the Aleutians East Borough Assembly authorizes the Mayor to negotiate and execute a Tribal Partnership Program Cost Share Agreement between the Department of the Army, the Native Village of Akutan and the Aleutians East Borough for the Akun Island Navigational Improvements Tribal Partnership Feasibility Study.

**PASSED AND ADOPTED** by the Aleutians East Borough on this 10<sup>th</sup> day of September, 2020.

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Alvin D. Osterback, Mayor

ATTEST:

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Tina Anderson, Clerk



**DRAFT**

**MODEL AGREEMENT  
FOR  
COST SHARED FEASIBILITY STUDIES  
APRIL 2, 2015  
(with updates as of MAY 9, 2019)**

**APPLICABILITY AND INSTRUCTIONS:**

1. The attached model feasibility cost sharing agreement (FCSA) must be used for all cost shared feasibility studies of proposed projects that will require specific authorization from Congress; for cost shared general reevaluation studies; and for cost shared feasibility studies of projects authorized without a completed Corps feasibility study. In addition, it will be used, with Option 4 or Option 5, as applicable, for cost shared feasibility studies under the Tribal Partnership Program for construction of water resources development projects or for the construction of projects for the preservation of cultural and natural resources related to water resources development.
2. The responsibility for review and approval of a FCSA that does not deviate from the approved model, or for an amendment to the approved April 2, 2015 model to include an approved option to the model, has been delegated to the MSC Commander and may be further delegated to the District Commander. Division Counsel concurrence (or District Counsel concurrence if approval authority is further delegated) that the FCSA, or amendment, does not deviate from the subject model, and is appropriate for use for the particular study, is required prior to approval. In addition, the MSC Commander has been delegated authority to approve non-substantive deviations to the model FCSA. Division Counsel concurrence that a deviation is non-substantive and recommendation that the deviation be approved is required prior to approval by the MSC Commander. A FCSA with substantive deviations, including deviations involving policy issues, unique circumstances, or controversial matters, must be forwarded for MSC review and then transmitted to the appropriate HQUSACE RIT, with MSC Division Commander recommendations, for review and approval by the Director of Civil Works.
3. The following options, including language for the FCSA, are addressed in the Attachment:
  - a. Option 1: Sponsor is a Non-Profit Entity (page A-1).
  - b. Option 2: Not An Obligation of Future Appropriations (page A-2).
  - c. Option 3: Multiple Sponsors (page A-3).
  - d. Option 4: Study in American Samoa, Guam, the Northern Mariana Islands, the Virgin Islands, or Puerto Rico, or involving an Indian Tribe or tribal organization (except a study under the Tribal Partnership Program eligible for the ability to pay adjustment, in which case Option 5 will be used) (page A-4).
  - e. Option 5: Tribal Partnership Program ability to pay adjustment (page A-6).
  - f. Option 6: Accelerated Funds, following approval by HQUSACE (page A-8).
  - g. Option 7: Contributed Funds, following Committee notification (page A-9).
4. Reminder: Make all required insertions, including language associated with an option; remove this cover page; remove the open and close brackets and any instructional text; ensure the page numbering, spacing and page breaks throughout the FCSA are appropriate; if more than one option is used, ensure the Article and paragraph numbering and references therein are correct; and delete the Attachment.

5. The Certificate of Authority, Certification Regarding Lobbying, and the Non-Federal Sponsor's Self-Certification of Financial Capability should be included as a part of the FCSA package. These certificates can be found on the Corps' "Project Partnership Agreements" website under the "Forms" tab.

AGREEMENT  
BETWEEN  
THE DEPARTMENT OF THE ARMY  
AND  
**THE NATIVE VILLAGE OF AKUTAN**  
AND  
**THE ALEUTIANS EAST BOROUGH**  
FOR THE  
**AKUN ISLAND NAVIGATIONAL IMPROVEMENTS TRIBAL PARTNERSHIP  
FEASIBILITY STUDY**

THIS AGREEMENT is entered into this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between the Department of the Army (hereinafter the "Government"), represented by the District Commander for Alaska District (hereinafter the "District Commander"), and the Native Village of Akutan represented by the President, and the Aleutians East Borough, represented by the Administrator (hereinafter the "Non-Federal Sponsors").

WITNESSETH, THAT:

WHEREAS, Section 203 of WRDA 2000 (33 U.S.C. 2269), as amended,] authorizes a study of navigation improvements at Akun Island, Alaska that will substantially benefit the Federally-recognized Alaska Native Aleut tribe of the Native Village of Akutan; and provide for safe mooring and transfer of people and cargo from aircraft, landing at the Akun Airport, to the community of Akutan on Akutan Island;

WHEREAS, Section 105(a) of the Water Resources Development Act of 1986, Public Law 99-662, as amended (33 U.S.C. 2215(a)), specifies the cost-sharing requirements; and

WHEREAS, the Government and the Non-Federal Sponsors have the full authority and capability to perform in accordance with the terms of this Agreement.

NOW, THEREFORE, the parties agree as follows:

ARTICLE I - DEFINITIONS

A. The term "Study" means the activities and tasks required to identify and evaluate alternatives and the preparation of a decision document that, as appropriate, recommends a coordinated and implementable solution for navigational improvements at Akun Island, Alaska.

B. The term "shared study costs" means all costs incurred by the Government and Non-Federal Sponsors after the effective date of this Agreement that are directly related to performance of the Study and cost shared in accordance with the terms of this Agreement. The term includes, but is not necessarily limited to, the Government's costs for preparing the PMP; for plan formulation and evaluation, including costs for economic, engineering, real estate, and

environmental analyses; for preparation of a floodplain management plan if undertaken as part of the Study; for preparing and processing the decision document; for supervision and administration; for Agency Technical Review and other review processes required by the Government; and for response to any required Independent External Peer Review; and the Non-Federal Sponsors' creditable costs for in-kind contributions, if any. The term does not include any costs for dispute resolution; participation by the Government and Non-Federal Sponsors in the Study Coordination Team to discuss significant issues and actions; audits; an Independent External Peer Review panel, if required; or for negotiating this Agreement. It also does not include any costs funded at full Federal expense based on the waiver of non-Federal cost sharing in accordance with Article II.J.

C. The term "PMP" means the project management plan, and any modifications thereto, developed in consultation with the Non-Federal Sponsors, that specifies the scope, cost, and schedule for Study activities and tasks, including the Non-Federal Sponsors' in-kind contributions, and that guides the performance of the Study.

D. The term "in-kind contributions" means those planning activities (including data collection and other services) that are integral to the Study and would otherwise have been undertaken by the Government for the Study and that are identified in the PMP and performed or provided by the Non-Federal Sponsors after the effective date of this Agreement and in accordance with the PMP.

E. The term "maximum Federal study cost" means the \$1,500,000 Federal cost limit for the Study, unless the Government has approved a higher amount.

F. The term "fiscal year" means one year beginning on October 1<sup>st</sup> and ending on September 30th of the following year.

## ARTICLE II - OBLIGATIONS OF THE PARTIES

A. In accordance with Federal laws, regulations, and policies, the Government shall conduct the Study using funds appropriated by the Congress and funds provided by the Non-Federal Sponsors. The Non-Federal Sponsors shall perform or provide any in-kind contributions in accordance with applicable Federal laws, regulations, and policies.

B. The Non-Federal Sponsors shall contribute 50 percent of shared study costs in accordance with the provisions of this paragraph and provide required funds in accordance with Article III.

1. As soon as practicable after completion of the PMP, and after considering the cost sharing waiver in accordance with Article II.J. and the estimated amount of credit for in-kind contributions, if any, that will be afforded in accordance with paragraph C. of this Article, the Government shall provide the Non-Federal Sponsors with a written estimate of the amount of funds required from the Non-Federal Sponsors for the remainder of the initial fiscal year of the Study. No later than 15 calendar days after such notification, the Non-Federal Sponsors shall provide the full amount of such funds to the Government.

2. No later than August 1<sup>st</sup> prior to each subsequent fiscal year of the Study, the Government shall provide the Non-Federal Sponsors with a written estimate of the amount of funds required from the Non-Federal Sponsors during that fiscal year to meet its cost share. No later than September 1<sup>st</sup> prior to that fiscal year, the Non-Federal Sponsors shall provide the full amount of such required funds to the Government.

C. The Government shall include in shared study costs and credit towards the Non-Federal Sponsors' share of such costs, the costs, documented to the satisfaction of the Government, that the Non-Federal Sponsors incur in providing or performing in-kind contributions, including associated supervision and administration. Such costs shall be subject to audit in accordance with Article VI to determine reasonableness, allocability, and allowability, and crediting shall be in accordance with the following procedures, requirements, and limitations:

1. As in-kind contributions are completed and no later than 60 calendar day after such completion, the Non-Federal Sponsors shall provide the Government appropriate documentation, including invoices and certification of specific payments to contractors, suppliers, and the Non-Federal Sponsors' employees. Failure to provide such documentation in a timely manner may result in denial of credit. The amount of credit afforded for in-kind contributions shall not exceed the Non-Federal Sponsors' share of shared study costs.

2. No credit shall be afforded for interest charges, or any adjustment to reflect changes in price levels between the time the in-kind contributions are completed and credit is afforded; for the value of in-kind contributions obtained at no cost to the Non-Federal Sponsors; for any items provided or performed prior to completion of the PMP; or for costs that exceed the Government's estimate of the cost for such item if it had been performed by the Government.

D. To the extent practicable and in accordance with Federal laws, regulations, and policies, the Government shall afford the Non-Federal Sponsors the opportunity to review and comment on solicitations for contracts prior to the Government's issuance of such solicitations; proposed contract modifications, including change orders; and contract claims prior to resolution thereof. Ultimately, the contents of solicitations, award of contracts, execution of contract modifications, and resolution of contract claims shall be exclusively within the control of the Government.

E. The Non-Federal Sponsors shall not use Federal program funds to meet any of their obligations under this Agreement unless the Federal agency providing the funds verifies in writing that the funds are authorized to be used for the Study. Federal program funds are those funds provided by a Federal agency, plus any non-Federal contribution required as a matching share therefor.

F. Except as provided in paragraph C. of this Article, the Non-Federal Sponsors shall not be entitled to any credit or reimbursement for costs they incur in performing their responsibilities under this Agreement.

G. In carrying out its obligations under this Agreement, the Non-Federal Sponsors shall comply with all the requirements of applicable Federal laws and implementing regulations, including, but not limited to: Title VI of the Civil Rights Act of 1964 (P.L. 88-352), as amended (42 U.S.C. 2000d), and Department of Defense Directive 5500.11 issued pursuant thereto; the Age Discrimination Act of 1975 (42 U.S.C. 6102); and the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and Army Regulation 600-7 issued pursuant thereto.

H. If Independent External Peer Review (IEPR) is required for the Study, the Government shall conduct such review in accordance with Federal laws, regulations, and policies. The Government's costs for an IEPR panel shall not be included in shared study costs or the maximum Federal study cost.

I. In addition to the ongoing, regular discussions of the parties in the delivery of the Study, the Government and the Non-Federal Sponsors may establish a Study Coordination Team to discuss significant issues or actions. The Government's costs for participation on the Study Coordination Team shall not be included in shared study costs, but shall be included in calculating the maximum Federal study cost. The Non-Federal Sponsors' costs for participation on the Study Coordination Team shall not be included in shared study costs and shall be paid solely by the Non-Federal Sponsors without reimbursement or credit by the Government.

J. Pursuant to Section 1156 of the Water Resources Development Act of 1986, Public Law 99-662, as amended (33 U.S.C. 2310), the Government shall waive up to \$484,000 in non-Federal cost sharing of the Study. The amount of the waiver shall not be included in shared study costs, but shall be included in calculating the maximum Federal study cost.

### ARTICLE III - PAYMENT OF FUNDS

A. As of the effective date of this Agreement, shared study costs are projected to be \$2,032,000, with the Government's share of such costs projected to be \$1,016,000 and the Non-Federal Sponsors' share of such costs projected to be \$1,016,000. These amounts are estimates only that are subject to adjustment by the Government and are not to be construed as the total financial responsibilities of the Government and the Non-Federal Sponsors.

B. The Government shall provide the Non-Federal Sponsors with monthly reports setting forth the estimated shared study costs and the Government's and Non-Federal Sponsors' estimated shares of such costs; costs incurred by the Government, using both Federal and Non-Federal Sponsors funds, to date; the amount of funds provided by the Non-Federal Sponsors to date; the estimated amount of any creditable in-kind contributions; costs funded at full Federal expense based on the waiver of non-Federal cost sharing in accordance with Article II.J.; and the estimated remaining cost of the Study.

C. The Non-Federal Sponsors shall provide to the Government required funds by delivering a check payable to "FAO, USAED, **Alaska District, J4**, to the District Commander, or verifying to the satisfaction of the Government that the Non-Federal Sponsors have deposited such required funds in an escrow or other account acceptable to the Government, with interest

accruing to the Non-Federal Sponsors, or by providing an Electronic Funds Transfer of such required funds in accordance with procedures established by the Government.

D. The Government shall draw from the funds provided by the Non-Federal Sponsor to cover the non-Federal share of shared study costs as those costs are incurred. If the Government determines at any time that additional funds are needed from the Non-Federal Sponsors to cover the Non-Federal Sponsors' required share of shared study costs, the Government shall provide the Non-Federal Sponsors with written notice of the amount of additional funds required. Within 60 calendar days of such notice, the Non-Federal Sponsors shall provide the Government with the full amount of such additional funds.

E. Upon completion of the Study and resolution of all relevant claims and appeals, the Government shall conduct a final accounting and furnish the Non-Federal Sponsors with the written results of such final accounting. Should the final accounting determine that additional funds are required from the Non-Federal Sponsors, the Non-Federal Sponsors, within 60 calendar days of written notice from the Government, shall provide the Government with the full amount of such additional funds. Should the final accounting determine that the Non-Federal Sponsors have provided funds in excess of its required amount, the Government shall refund the excess amount, subject to the availability of funds. Such final accounting does not limit the Non-Federal Sponsors' responsibility to pay its share of shared study costs, including contract claims or any other liability that may become known after the final accounting.

#### ARTICLE IV - TERMINATION OR SUSPENSION

A. Upon 30 calendar days written notice to the other party, either party may elect at any time, without penalty, to suspend or terminate future performance of the Study. Furthermore, unless an extension is approved by the Assistant Secretary of the Army (Civil Works), the Study may be terminated if a Report of the Chief of Engineers, or, if applicable, a Report of the Director of Civil Works, is not signed for the Study within 3 years after the effective date of this Agreement.

B. In the event of termination, the parties shall conclude their activities relating to the Study. To provide for this eventuality, the Government may reserve a percentage of available funds as a contingency to pay the costs of termination, including any costs of resolution of contract claims, and resolution of contract modifications.

C. Any suspension or termination shall not relieve the parties of liability for any obligation incurred. Any delinquent payment owed by the Non-Federal Sponsors pursuant to this Agreement shall be charged interest at a rate, to be determined by the Secretary of the Treasury, equal to 150 per centum of the average bond equivalent rate of the 13 week Treasury bills auctioned immediately prior to the date on which such payment became delinquent, or auctioned immediately prior to the beginning of each additional 3 month period if the period of delinquency exceeds 3 months.

## ARTICLE V - DISPUTE RESOLUTION

As a condition precedent to a party bringing any suit for breach of this Agreement, that party must first notify the other party in writing of the nature of the purported breach and seek in good faith to resolve the dispute through negotiation. If the parties cannot resolve the dispute through negotiation, they may agree to a mutually acceptable method of non-binding alternative dispute resolution with a qualified third party acceptable to the parties. Each party shall pay an equal share of any costs for the services provided by such a third party as such costs are incurred. The existence of a dispute shall not excuse the parties from performance pursuant to this Agreement.

## ARTICLE VI - MAINTENANCE OF RECORDS AND AUDIT

A. The parties shall develop procedures for the maintenance by the Non-Federal Sponsors of books, records, documents, or other evidence pertaining to costs and expenses for a minimum of three years after the final accounting. The Non-Federal Sponsors shall assure that such materials are reasonably available for examination, audit, or reproduction by the Government.

B. The Government may conduct, or arrange for the conduct of, audits of the Study. Government audits shall be conducted in accordance with applicable Government cost principles and regulations. The Government's costs of audits for the Study shall not be included in shared study costs, but shall be included in calculating the maximum Federal study cost.

C. To the extent permitted under applicable Federal laws and regulations, the Government shall allow the Non-Federal Sponsors to inspect books, records, documents, or other evidence pertaining to costs and expenses maintained by the Government, or at the request of the Non-Federal Sponsors, provide to the Non-Federal Sponsors or independent auditors any such information necessary to enable an audit of the Non-Federal Sponsors' activities under this Agreement. The costs of non-Federal audits shall be paid solely by the Non-Federal Sponsors without reimbursement or credit by the Government.

## ARTICLE VII - RELATIONSHIP OF PARTIES

In the exercise of their respective rights and obligations under this Agreement, the Government and the Non-Federal Sponsors each act in an independent capacity, and neither is to be considered the officer, agent, or employee of the other. Neither party shall provide, without the consent of the other party, any contractor with a release that waives or purports to waive any rights a party may have to seek relief or redress against that contractor.

## ARTICLE VIII - NOTICES

A. Any notice, request, demand, or other communication required or permitted to be given under this Agreement shall be deemed to have been duly given if in writing and delivered personally or mailed by certified mail, with return receipt, as follows:

If to the Non-Federal Sponsors:

President, Native Village of Akutan  
P.O. Box 89  
Akutan, AK 99553

And:

Aleutians East Borough  
3380 C Street, Suite 205  
Anchorage, AK 99503

If to the Government:

Commander, Alaska District U.S. Army Corps of Engineers  
P.O. BOX 6898  
Joint Base Elmendorf Richardson, AK 99506-0898

B. A party may change the recipient or address for such communications by giving written notice to the other party in the manner provided in this Article.

## ARTICLE IX - CONFIDENTIALITY

To the extent permitted by the laws governing each party, the parties agree to maintain the confidentiality of exchanged information when requested to do so by the providing party.

## ARTICLE X - THIRD PARTY RIGHTS, BENEFITS, OR LIABILITIES

Nothing in this Agreement is intended, nor may be construed, to create any rights, confer any benefits, or relieve any liability, of any kind whatsoever in any third person not a party to this Agreement.

## ARTICLE XI – JOINT AND SEVERAL RESPONSIBILITY OF THE NON-FEDERAL SPONSORS

The obligations and responsibilities of the Non-Federal Sponsors shall be joint and several, such that each Non-Federal Sponsor shall be liable for the whole performance of the obligations and responsibilities of the Non-Federal Sponsors under the terms and provisions of this Agreement. The

Government may demand the whole performance of said obligations and responsibilities from any of the entities designated herein as one of the Non-Federal Sponsors.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, which shall become effective upon the date it is signed by the District Commander.

DEPARTMENT OF THE ARMY

NATIVE VILLAGE OF AKUTAN

BY: \_\_\_\_\_  
Damon A. Delarosa  
Colonel, U.S. Army  
District Commander

BY: \_\_\_\_\_  
Joseph Bereskin  
President

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

ALEUTIANS EAST BOROUGH

BY: \_\_\_\_\_  
Anne Bailey  
Administrator

DATE: \_\_\_\_\_

**Option 3: Multiple Non-Federal Sponsors.** It is strongly preferred that there is one party only as the Non-Federal Sponsor for the FCSA. Nonetheless, it is permissible to have more than one Non-Federal Sponsor if the Non-Federal Sponsors are jointly and severally responsible for all non-Federal obligations and responsibilities under the FCSA. **The FCSA should be modified to use the term “Non-Federal Sponsors” throughout along with the necessary modifications to change, as appropriate, verbs and pronouns from singular to plural.** In addition, insert into the FCSA as the last Article the following:

“ARTICLE XI – JOINT AND SEVERAL RESPONSIBILITY OF THE  
NON-FEDERAL SPONSORS

The obligations and responsibilities of the Non-Federal Sponsors shall be joint and several, such that each Non-Federal Sponsor shall be liable for the whole performance of the obligations and responsibilities of the Non-Federal Sponsors under the terms and provisions of this Agreement. The Government may demand the whole performance of said obligations and responsibilities from any of the entities designated herein as one of the Non-Federal Sponsors.”

**Option 4: Study in American Samoa, Guam, the Northern Mariana Islands, the Virgin Islands, or Puerto Rico, or involving an Indian Tribe or tribal organization (as defined in Section 4 of the Indian Self-Determination and Education Assistance Act, 25 U.S.C. 5304). This option will be used for a study under the Tribal Partnership Program, Section 203 of the Water Resources Development Act of 2000, Public Law 106-541, as amended (33 U.S.C. 2269), unless the tribe qualifies for the ability to pay adjustment provided by 33 U.S.C. 2269(d)(1), in which case Option 5 will be used.** In accordance with Section 1156 of the Water Resources Development Act of 1986, Public Law 99-662, as amended (33 U.S.C. 2310), up to \$484,000 in non-Federal cost sharing is waived for these studies. The following changes to the FCSA should be made:

1. Replace the last sentence in Article I.B. with the following:

“The term does not include any costs for dispute resolution; participation by the Government and Non-Federal Sponsor in the Study Coordination Team to discuss significant issues and actions; audits; an Independent External Peer Review panel, if required; or for negotiating this Agreement. It also does not include any costs funded at full Federal expense based on the waiver of non-Federal cost sharing in accordance with Article II.J.”

2. Replace Article II.B. in its entirety with the following:

“B. The Non-Federal Sponsor shall contribute 50 percent of shared study costs in accordance with the provisions of this paragraph and provide required funds in accordance with Article III.

1. As soon as practicable after completion of the PMP, and after considering the cost sharing waiver in accordance with Article II.J. and the estimated amount of credit for in-kind contributions, if any, that will be afforded in accordance with paragraph C. of this Article, the Government shall provide the Non-Federal Sponsor with a written estimate of the amount of funds required from the Non-Federal Sponsor for the remainder of the initial fiscal year of the Study. No later than 15 calendar days after such notification, the Non-Federal Sponsor shall provide the full amount of such funds to the Government.

2. No later than August 1<sup>st</sup> prior to each subsequent fiscal year of the Study, the Government shall provide the Non-Federal Sponsor with a written estimate of the amount of funds required from the Non-Federal Sponsor during that fiscal year to meet its cost share. No later than September 1<sup>st</sup> prior to that fiscal year, the Non-Federal Sponsor shall provide the full amount of such required funds to the Government.”

3. Replace the last sentence in Article II.C.1. with the following:

“The amount of credit afforded for in-kind contributions shall not exceed the Non-Federal Sponsor’s share of shared study costs.”

## Attachment

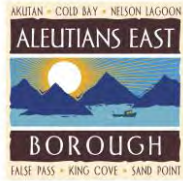
4. Add a new paragraph J. to Article II as follows:

“J. Pursuant to Section 1156 of the Water Resources Development Act of 1986, Public Law 99-662, as amended (33 U.S.C. 2310), the Government shall waive up to \$484,000 in non-Federal cost sharing of the Study. The amount of the waiver shall not be included in shared study costs, but shall be included in calculating the maximum Federal study cost.”

5. Replace Article III.B. its entirety with the following:

“B. The Government shall provide the Non-Federal Sponsor with monthly reports setting forth the estimated shared study costs and the Government’s and Non-Federal Sponsor’s estimated shares of such costs; costs incurred by the Government, using both Federal and Non-Federal Sponsor funds, to date; the amount of funds provided by the Non-Federal Sponsor to date; the estimated amount of any creditable in-kind contributions; costs funded at full Federal expense based on the waiver of non-Federal cost sharing in accordance with Article II.J.; and the estimated remaining cost of the Study.”

uture.”



## Agenda Statement

Date: September 4, 2020

To: Mayor Osterback and Assembly

From: Anne Bailey, Borough Administrator

**Re: Resolution 21-16 authorizing the Mayor to negotiate and execute an Agreement with Robertson Monagle and Eastaugh to provide legal representation in the 9<sup>th</sup> Circuit Court of Appeals to appeal the June 1, 2020 Alaska Federal District Court decision by Judge Sedwick in *Friends of Alaska National Wildlife Refuge, et.al v. King Cove Corporation. al.* in an amount not to exceed \$107,750**

Robertson Monagle and Eastaugh (RME) is requesting authority and funding to provide legal representation in the 9<sup>th</sup> Circuit Court of Appeals to appeal the June 1, 2020 Alaska Federal District Court decision by Judge John Sedgwick in *Friends of Alaska National Wildlife Refuge, et.al v. King Cove Corporation. al.* in an amount not to exceed \$107,750.

The contractual compliance and funding relationship for this work will be between the Borough and RME and the legal and technical tasks conducted will represent the King Cove – Cold Bay Group, which consists of the Aleutians East Borough, KCC, Agdaagux Tribe, Native Village of Belkofski, City of King Cove and City of Cold Bay.

RME's strategy will be to intervene, exclusively, through KCC and join the Department of Justice (DOJ) in defending the Agreement.

### **A Summary of Current Litigation Status is as follows:**

1. On June 1, 2020, Alaska Federal District Court Judge Sedgwick invalidated the Land Exchange Agreement that had been executed between King Cove Corporation on June 28, 2019.
2. August 14-17, 2020—Each of the three parties that supported the Land Exchange filed a timely Notice of Appeal. These parties are the 1) King Cove Corporation, Augdaaguux Tribe, and Native Village of Belkofski; 2) State of Alaska; and 3) Secretary of Interior David Bernhardt, the Department of Interior, and U.S. Fish and Wildlife Service.

3. August 18-The 9th Circuit Clerk acknowledged the timely filing of the Notices of Appeal and set the following preliminary Schedule:
  - August 25, 2020—Return of Mediation Questionnaires, which was done by all 3 parties on time.
  - October 25, 2020—Appellants, (KCC, et al., STATE OF AK, AND BERNHARDT, et.al) schedule to file opening Brief. However, this date is likely to be rescheduled during Mediation process.

**Although it is hard to predict the overall timing of the case the anticipated Next Steps include:**

1. October 25, 2020 –Each of the Appellants, including King Cove Corp, et.al. must file its Opening Brief and Excerpts of Record.
2. November 22, 2020 – Appellees (the environmental groups opposing the Land Exchange) must file their Answering Brief and excerpts of record.
3. December 14, 2020—Each Appellant may file a Reply Brief.
4. June 2021—Oral Argument will be scheduled, likely in Alaska (subject to Covid-19 restriction). The 9<sup>th</sup> Circuit has typically held oral arguments in Anchorage during that time period. This Oral Argument will likely provide 20 minutes to each side for argument. We will have to work with Department of Justice/DOI, and the State of Alaska to determine how much time each of the three Appellants will have to make its case. Typically, since the Federal Government is the main Appellant, most of the time for argument will be taken by the Justice Department attorney. However, King Cove et. al and State will be provided time for argument.

This case will be heard by a 3 Judge panel. We will not know which judges are on the panel until a few days before the arguments.

5. Following the Oral Argument, the 3 Judge Panel will begin its consideration. It is likely that a decision will be rendered by the panel in writing later in 2021, but the panel is under no time requirement in which to make its decision. Since this is an appellate court, there will be no trial with a fact finding phase. The Panel will review and decide *de novo* (on its own) the legal issues enunciated by Judge Sedwick in his July Order.

**Scope of Work and Cost Estimate:**

The legal work includes but is not limited to:

- Contacting DOI and DOJ

- Drafting our Opening Brief and Legal research to defend the legality of the Land Exchange Agreement
- Coordinating with the State of Alaska Dept. of Law attorneys
- Drafting Reply Brief to Appellees' Answering Brief
- Contingency for unanticipated work required by the Court before or after the 9<sup>th</sup> Circuit Oral argument
- Travel expenses for oral argument or other necessary travel

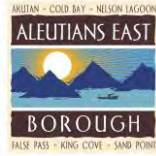
The cost for these services is \$107,750. The Borough would enter into a not to exceed agreement; therefore, the Borough will not pay for services that are not rendered by RME.

The Borough has funds available in the Borough's King Cove Access Project Designated Legislative Grant (account number E 20-867-168-850 Capital Construction) to pay for the litigation services.

#### RECOMMENDATION

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Administration recommends approval of Resolution 21-16 authorizing the Mayor to negotiate and execute an Agreement with Robertson Monagle and Eastaugh to provide legal representation in the 9<sup>th</sup> Circuit Court of Appeals to appeal the June 1, 2020 Alaska Federal District Court decision by Judge Sedwick in *Friends of Alaska National Wildlife Refuge, et.al v. King Cove Corporation. al.* in an amount not to exceed \$107,750.



## **RESOLUTION 21-16**

**A RESOLUTION OF THE ALEUTIANS EAST BOROUGH ASSEMBLY  
AUTHORIZING THE MAYOR TO NEGOTIATE AND EXECUTE AN AGREEMENT  
WITH ROBERTSON MONAGLE AND EASTAUGH TO PROVIDE LEGAL  
REPRESENTATION IN THE 9<sup>th</sup> CIRCUIT COURT OF APPEALS TO APPEAL THE  
JUNE 1, 2020 ALASKA FEDERAL DISTRICT COURT DECISION BY JUDGE SEDGWICK  
IN *FRIENDS OF ALASKA NATIONAL WILDLIFE REFUGE, ET.AL V. KING COVE  
CORPORATION. AL.* IN AN AMOUNT NOT TO EXCEED \$107,750**

**WHEREAS**, on June 1, 2020, Alaska Federal District Court Judge Sedgwick invalidated the Land Exchange Agreement that had been executed between King Cove Corporation on June 28, 2019; and

**WHEREAS**, between August 14-17, 2020, the following parties that supported the Land Exchange filed a timely appeal: 1) King Cove Corporation, Augdaaguux Tribe, and Native Village of Belkofski; 2) State of Alaska; and 3) Secretary of Interior David Bernhardt, the Department of Interior, and U.S. Fish and Wildlife Service; and

**WHEREAS**, on August 18, 2020 the 9<sup>th</sup> Circuit Clerk acknowledged the timely filing of the Notices of Appeal and set a preliminary Schedule; and

**WHEREAS**, Robertson Monagle and Eastaugh (RME) have submitted a proposal requesting authority and funding to provide legal representation in the 9<sup>th</sup> Circuit Court of Appeals to appeal the June 1, 2020 Alaska Federal District Court decision by Judge John Sedgwick in *Friends of Alaska National Wildlife Refuge, et.al v. King Cove Corporation. al.*; and

**WHEREAS**, the contractual compliance and funding relationship for the work will be between the Borough and RME and legal and technical tasks will represent the King Cove – Cold Bay Group; and

**WHEREAS**, the cost estimate for RME's legal services is \$107,750; and

**WHEREAS**, funds for this expense would be come from the Borough's King Cove Access Project State of Alaska Department of Commerce, Community and Economic Development Designated Legislative Grant, Borough account number E 20-867-168-850 Capital Construction.

**NOW THEREFORE, BE IT RESOLVED**, the Aleutians East Borough Assembly authorizes the Mayor to negotiate and execute an Agreement with Robertson Monagle and Eastaugh to provide legal representation in the 9<sup>th</sup> Circuit Court of Appeals to appeal the June 1, 2020 Alaska Federal District Court decision by Judge John Sedgwick in *Friends of Alaska*

*National Wildlife Refuge, et.al v. King Cove Corporation. al.* in an amount not to exceed \$107,750.

**PASSED AND ADOPTED** by the Aleutians East Borough on this 10<sup>th</sup> day of September, 2020.

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Alvin D. Osterback, Mayor

ATTEST:

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Tina Anderson, Clerk

**ROBERTSON MONAGLE & EASTAUGH**

ATTORNEYS AT LAW  
1810 Samuel Morse Dr. Suite 202  
Reston, VA 20190  
703-527-4414 office  
571-313 1973 fax

Sept. 5, 2020  
Submitted by Steve Silver

**REQUEST AUTHORITY TO RESPOND TO PENDING 9<sup>TH</sup> CIRCUIT APPEAL**

This Memorandum requests approval of a Budget to provide legal representation in the 9<sup>th</sup> Circuit Court of Appeals to appeal the June 1, 2020 Alaska Federal District Court decision by Judge John Sedgwick in *Friends of Alaska National Wildlife Refuge, et.al v. King Cove Corporation. al.*

**Current Status:**

On June 1, 2020, Alaska Federal District Court Judge Sedgwick invalidated the Land Exchange Agreement that had been executed between King Cove Corporation on June 28, 2019.

August 14-17, 2020—Each of the three parties that supported the Land Exchange filed a timely Notice of Appeal. These parties are the 1) King Cove Corporation, Augdaaguux Tribe, and Native Village of Belkofski; 2) State of Alaska; and 3) Secretary of Interior David Bernhardt, the Department of Interior, and U.S. Fish and Wildlife Service.

August 18-The 9th Circuit Clerk acknowledged the timely filing of the Notices of Appeal and set the following preliminary Schedule:

- August 25, 2020—Return of Mediation Questionnaires, which was done by all 3 parties on time.
- October 25, 2020—Appellants, (KCC, et al., STATE OF AK, AND BERNHARDT, et.al) schedule to file opening Brief. However, this date is likely to be rescheduled during Mediation process.

**9<sup>th</sup> Circuit Mediation Process**—The 9<sup>th</sup> Circuit has a mediation process by which Appellants and Appellees are contacted for individual interviews by a 9<sup>th</sup> Circuit mediator who is an employee of the 9<sup>th</sup> Circuit court. After these interviews, the 9<sup>th</sup> Circuit mediator will determine for the Court whether mediation should be undertaken. Mediation is unlikely in this case since all parties must agree to participate and be willing to concede to end the litigation. The Trustees will oppose the road, which is a non-starter for us.

After the mediator finishes the interview process the mediator will likely reschedule the Schedule for filing the briefs. But even though the briefing schedule may be delayed, this Memo proposes a Budget for approval so that Jim Clark and I may begin working now on the assumption that we must file our Opening Brief on October 25, 2020.

**Next Steps—Current Schedule:**

1. October 25, 2020 –Each of the Appellants, including King Cove Corp, et.al. must file its Opening Brief and Excerpts of Record.
3. November 22, 2020 – Appellees (the environmental groups opposing the Land Exchange) must file their Answering Brief and excerpts of record.
4. December 14, 2020—Each Appellant may file a Reply Brief.
5. June 2021—Oral Argument will be scheduled, likely in Alaska (subject to Covid-19 restriction. The 9<sup>th</sup> Circuit has typically held oral arguments in Anchorage during that time period. This Oral Argument will likely provide 20 minutes to each side for argument. We will have to work with Department of Justice/DOI, and the State of Alaska to determine how much time each of the three Appellants will have to make its case. Typically, since the Federal Government is the main Appellant, most of the time for argument will be taken by the Justice Department attorney. However, King Cove et. al and State will be provided time for argument.

This case will be heard by a 3 Judge panel. We will not know which judges are on the panel until a few days before the arguments.

6. Following the Oral Argument, the 3 Judge Panel will begin its consideration. It is likely that a decision will be rendered by the panel in writing later in 2021, but the panel is under no time requirement in which to make its decision. Since this is an appellate court, there will be no trial with a fact finding phase. The Panel will review and decide *de novo* (on its own) the legal issues enunciated by Judge Sedwick in his July Order.

**Legal Work:** The legal work will include the following tasks with estimated total/combined hours by task for Steve Silver and Jim Clark. These tasks and hours assigned are estimates. But the total proposal is guaranteed “not to exceed” unless an additional amount is pre-approved by Aleutians East Borough.

The legal work will include:

1. **Contacting DOJ/DOJ**--to continue legal coordination with the federal and State of Alaska attorneys. One goal will be to coordinate and align the DOJ/DOI brief and the State brief with our brief. This will require some time and effort with DOJ and the State.

**Estimated Hours-- 25 Hours – 10 more hours than approved in 2018 and 2019. Because this is a 9<sup>th</sup> Circuit Appeal, the case will be handled by the DOJ Appellate Division- meaning that**

**there will be a new DOJ attorney. This will require additional effort to coordinate and align the briefs.**

**2 Drafting our Opening Brief and Legal research to defend the legality of the Land Exchange Agreement.**

This includes defending the Exchange under the Administrative Procedure Act (APA), and Sections 1302(h) and Title XI of the Alaska National Interest Lands Conservation Act (ANILCA),

Some of the legal research from the prior litigation will be used to provide support for our Appellate Brief. However, responding to the District Court Opinion will require new legal research and new arguments, particularly on the APA and Title XI of ANILCA.

**Estimated Hours—185 Hours same as approved in 2018 for similar tasks above**

**3. Coordinating with the State of Alaska Dept. of Law attorneys-** A key goal is to convince the State to align its brief with our argument that the Land Exchange Agreement is not a change in policy position but is instead a different decision altogether.

In any event the State will coordinate its briefing with ours.

**Estimated hours - 25 Hours —Same as 2018 and 20129 approved budgets.**

**4. Drafting Reply Brief to Appellees' Answering Brief**

**This will require legal research and additional drafting**

**Estimated hours - 55 Hours same as time needed for the Motion to Intervene in the District Court, but for a different task.**

**5. Contingency for unanticipated work required by the Court before or after the 9<sup>th</sup> Circuit Oral argument.**

**Estimated Hours—25 Hours.**

**6. Travel Expenses for Oral Argument or other necessary Travel--\$5000.00**

**Summary: Total Hours projected: 290 hours without Contingency—315 hours with Contingency.**

**COST REQUEST**

<b>290 hours x \$325 hourly (average of Silver &amp; Clark hourly rates)</b>	<b>\$94,625</b>
<b>Out-of-pocket expenses (court filings, copies, deliveries, travel –Oral Argument)</b>	<b>\$ 5,000</b>
<b>25 hours x 325 –Contingency</b>	<b><u>\$ 8,125</u></b>
<b>TOTAL COST AND FEES REQUESTED FOR APPROVAL</b>	<b>\$107,750</b>

**Cost and Fees** – As stated last year, this will not be an inexpensive case to appeal. If we win at the 9<sup>th</sup> Circuit level, we can go forward with implementing the Agreement.

I will provide the same detailed monthly bills that have been provided in the past. We can review each bill monthly and I will provide a monthly summary of the litigation status with each bill. My hourly rate remains \$350, and Jim's rate is \$300 as previously. The total hours which I predict will be needed to cover the above is 290 hours without contingency. This time continues to be hard to predict.

Other work which may be expected later is not as certain to occur and is not included in this estimate.

Please let me know if this proposed Budget is acceptable. I ask that I be given the authority to begin immediately. Even though the Mediator may change the date our Opening Brief is due, we must nevertheless assume that the Brief must be filed on October 25<sup>th</sup> and thus get started as soon as possible on drafting, legal research, and discussions with the DOI, DOJ, and the State.

Please let me know if you want to discuss this Memo by phone.

**OLD BUSINESS**

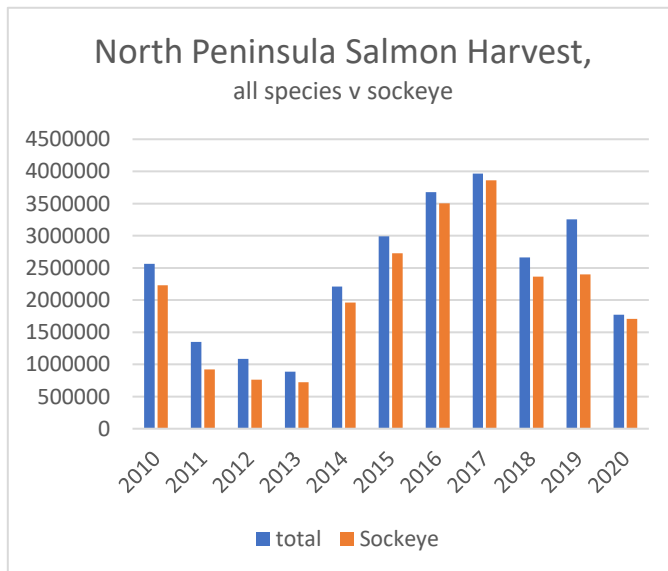
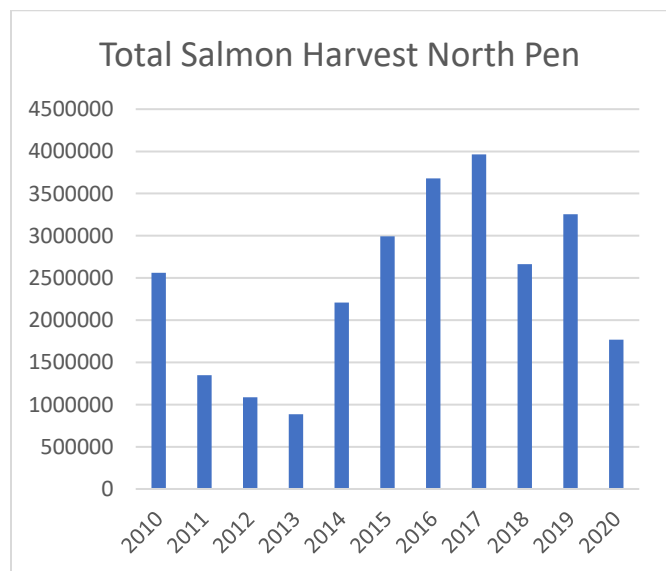
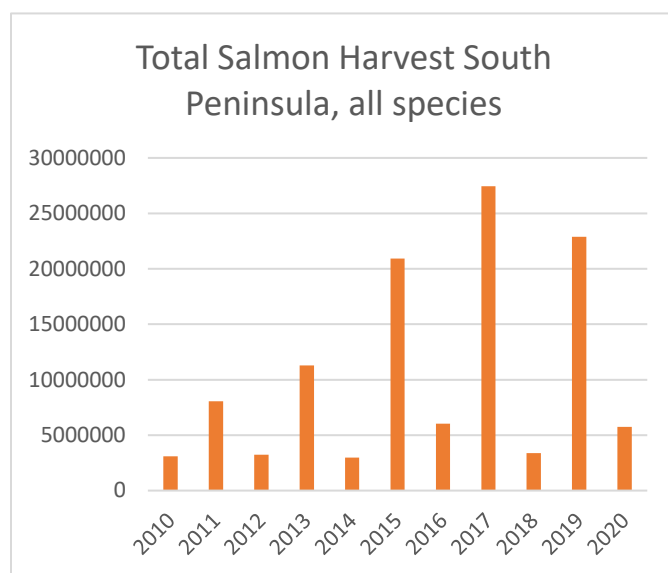
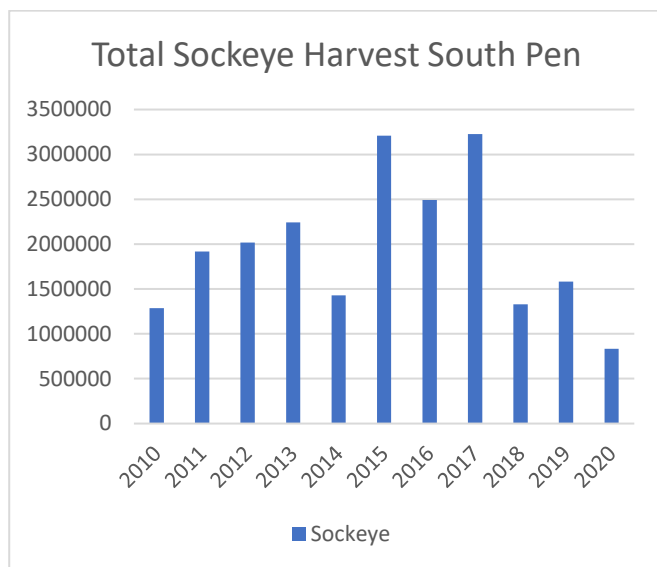
## Cod Fisheries Update

# New Business

# Strategic Plan Quarter 2 Update

Memo: 2020 Salmon - potential fishery disaster designation request  
For Mayor Osterback  
From Ernie Weiss  
September 2, 2020

The data used to produce the following graphs are from ADFG<sup>1</sup>. Data counts are numbers of fish.



<sup>1</sup> Data for North Peninsula years 2010 – 2019 comes from the management report, for 2020 from the most recent Area M Daily Harvest report (9/2/20). Data for the South Peninsula 2010 – 2018 comes from the management report, and for 2019 & 2020 from the most recent daily report available.

The general guideline for fishery disaster requests is that the impact of a fishery decline between 35% and 80% compared to the previous 5 years annual activity, *may* result in a disaster declaration. Declines of 80% or more, are expected to result in a disaster declaration.

Using the ADFG data - #s of fish harvested 2015-2020, we can calculate the percent decline of 2020 salmon fisheries compared to the previous 5-year average (2015-2019).

For the South Peninsula 2020 fishery:

- sockeye harvest declined 65%
- Chinook harvest declined 17%
- Coho harvest declined 62%
- Chum harvest declined 38%
- Pink harvest declined 67%

However, comparing 2020 pink harvest to the five most recent *even numbered* years shows an increase of harvest (over 300%).

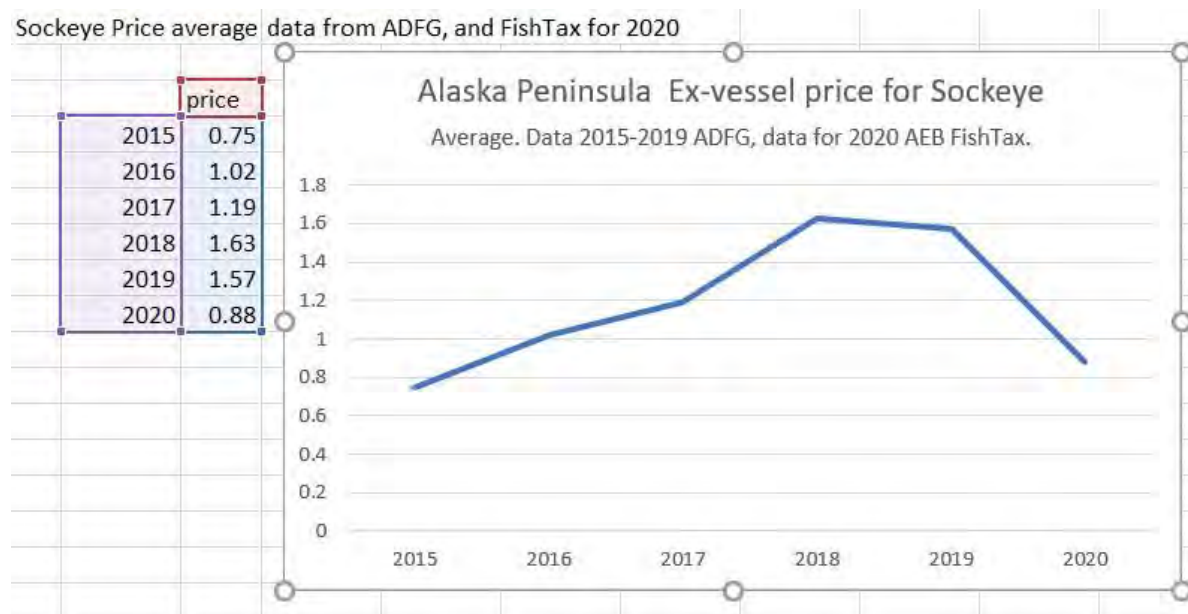
Using data for all salmon combined shows a decline in harvest for 2020 compared to the previous 5-year average. **64 % decline in total salmon harvested** in 2020 compared to the previous 5-year average, in the South Peninsula.

For the North Peninsula 2020 fishery:

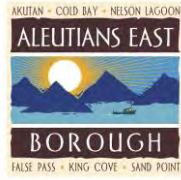
- sockeye harvest declined 43%, compared to **47% decline of all salmon combined**.

The data used above uses numbers of fish, from the data that ADFG publishes. In past requests for consideration of salmon disaster declarations, the AEB has relied mainly on the #s of fish data to show declines in the fishery. Other variables contribute to the degree of the disaster, namely: average size of fish, and price paid at the dock. Salmon are overall smaller this year compared to previous years; we plan to further investigate salmon size data.

ADFG tracks ex-vessel price for species and area by year. We used that data for data points for 2015-2019 sockeye ex-vessel price for the Alaska Peninsula, for 2020 we used AEB FishTax program data:



# REPORTS AND UPDATES



**To: Honorable Mayor Osterback and AEB Assembly**  
**From: Anne Bailey, Borough Administrator**  
**Subject: Assembly Report**  
**Date: September 3, 2020**

## **COVID-19**

On September 2, 2020, six people tested positive for COVID-19. The individuals are non-Alaska residents. EAT confirmed that “upon receiving the positive test results, the patients were immediately placed in isolation – away from others.” EAT continues to work closely with Alaska Public Health, the Cities and others to ensure precautions were being taken to protect anyone who may have been in close contact with the individuals.

The Borough continues to be engaged in COVID-19 issues. Below are a few updates regarding COVID-19:

- CARES Act Funding:
  - The Aleutians East Borough Emergency Assistance & Economic Stimulus Grant was released on September 1, 2020. We have already begun receiving applications and staff is in the process of reviewing them now.
  - Non-Profit and Civic Organization Relief Grant Program: \$150,000 has been appropriated to this program, which will provide economic assistance to non-profit and civic organizations within the Borough that have been impacted by COVID-19. Although the grant application is still in draft format, we envision that non-profits/civic organizations will be awarded up to \$10,000 or an equally prorated amount to all qualified applicants. Therefore, if there were 1-15 qualified applicants each would receive \$10,000 and if there were 50 qualified applicants each applicant would get \$3,000. Administration intends to make this available to the public on September 15, 2020.
  - CARES Act Funding Reporting: Through July 2020, the Borough has reported \$110,143.06 in CARES Act funding expenditures.
- Facemasks Campaign: The Borough has initiated the #maskupAleutiansEast campaign. Please check out the photos on the Aleutians East Borough Facebook page. If you are interested in participating, please email a photo and a caption of why you were a mask to Mary Tesche at [mtesche@aeboro.org](mailto:mtesche@aeboro.org). We are in the process of getting quotes for cloth face coverings which will be distributed to community members and COVID-19 signage has been distributed to the communities.
- A COVID-19 Aleutians East Borough Employee Policy is still in place. The goal of this is to reduce transmission among staff and to help protect people who are higher risk for adverse health complications while maintaining Borough operations. The current policy is effective from July 31, 2020 through September 30, 2020. Per this

policy, all Borough offices are still closed to the public; however, staff remains accessible via email and telephone.

- The Borough continues to post COVID-19 related items on the Borough's Website and on the Borough's Facebook Page.
- The Borough continues to host weekly meetings with the Borough community leaders, Eastern Aleutian Tribes, and our school district to touch base on what is occurring during this unprecedented time.
- The Borough is also attending Alaska Municipal League Meetings, State of Alaska Emergency Manager's briefings, Alaska Municipal Managers Association Meetings, Fishery discussions and others.

## **King Cove Road**

The Department of Interior, the State of Alaska, the King Cove Corporation, tribes, the City of King Cove and the Aleutians East Borough continue to have discussions regarding the road.

The Department of Justice filed a Federal Defendants Notice of Appeal on Friday, August 14<sup>th</sup>. On August 17, 2020, Robertson, Monagle and Eastaugh submitted an appeal on behalf of the Agdaagux Tribe, the King Cove Corporation, the Native Village of Belkofski, the City of King Cove and the Borough today. This work falls under the agreement and funding currently authorized. The State of Alaska also submitted their appeal on August 17, 2020.

## **Cold Bay Terminal**

- Alaska Airlines: The Borough has met with Alaska Airlines to discuss future TSA designs in the terminal. We are still in the process of determining a final design. Alaska Airlines and the Borough are trying to ensure that TSA's footprint is as small as possible while ensuring that TSA will be able to function properly. The Borough, Alaska Airlines and TSA are also working on security protocols for the facility.
- Ravn – Cold Bay Terminal Update: The Borough continues to have discussions with the Ravn Alaska on their plans for operating in the terminal. We are waiting written documentation on the status of Corvus's (the "old Ravn's) sublease.

## **Bond Refinancing**

Administration is working with our Bond Counsel on completing the 2010B Series Three General Obligation Funding Bond. We anticipate receiving the refunding bond prices on September 16, 2020 and having the documents reviewed and signed by September 30, 2020.

## **Akun Boat Harbor Study**

Administration is working closely with the Akutan Tribe and Army Corps of Engineers on this project. Resolution 21-12 Authorizing the Mayor to Negotiate and Execute Amendment No. 4 of the Co-Sponsorship Agreement with the Alaska Department of Transportation and Public Facilities and the City of Akutan and Resolution 21-13 Authorizing the Mayor to Negotiate and Execute a Tribal Partnership Program Cost Share Agreement between the Department of the Army, the Native Village of Akutan and the Aleutians East Borough for the Akun Island Navigational Improvements Tribal Partnership Feasibility Study will be before the Assembly at the September 10, 2020 Assembly Meeting. If approved, then Administration and the Tribe will

ensure that the proper paperwork is to the Army Corps of Engineers to meet their deadlines.

## Other Items

- Strategic Planning: We have entered into a contract with PGS to provide strategic planning services for the 2021-2020 planning cycle. The staffs first meeting with PGS is scheduled on September 8, 2020.
- Akutan Essential Air Service Update: On August 25, 2020, the US Department of Transportation issued order requesting proposals from air carriers interested in providing EAS at Akutan, Alaska, for a new contract term beginning January 1, 2021, with or without subsidy. Air carriers are required to file proposals no later than 11:59 pm Eastern Standard Time on September 21, 2020. The complete public file for EAS at Akutan may be accessed online through the Federal Docket Management System at [www.regulations.gov](http://www.regulations.gov) by entering DOT-OST-2000-7068 in the “Search” field.
- I have continuously attended AML, State of Alaska Emergency Operations Meetings and many other meetings throughout the month.
- I have also been continuously been conducting other day to day operations.

If you have any questions, comments or concerns please contact me at (907) 317-1498 or [abailey@aeboro.org](mailto:abailey@aeboro.org).



To: The Honorable Mayor Osterback, AEB Assembly  
From: Mary Tesche, Assistant Administrator  
Subject: Assembly Report  
Date: September 4<sup>th</sup>, 2020

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## Strategic Plan Update

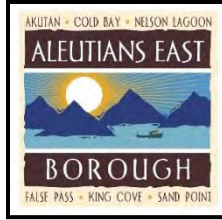
Sand Point School DEED Grant – The DEED grant application was submitted on September 1<sup>st</sup>. The total funding request was \$3,931,263 after adjusting for inflation in anticipation of starting the project in 2022/2023. The priority list for State CIP projects are typically submitted in December, which is how we will know how our application ranked. During the next legislative cycle (2020-2021), funding for the program is appropriated and awards are made the following summer. If our project is included in the State budget, we would receive funding as early as June 2021. The tract for this project is now complete.

## Other Items & Announcements

- We've started accepting applications for our Emergency Assistance & Economic Stimulus grant program. We've already received many applications. If there are any questions on the program, please give me a call or send an e-mail to [covid19@aeboro.org](mailto:covid19@aeboro.org). So far, the program is off to a great start.
- #maskupAleutians East – Please send in your photos! If you'd like to be featured on our Facebook page wearing a mask, send me an e-mail with your photo and a quote on why you wear your mask.
- Other projects and meetings I've worked on this month include the Cold Bay Terminal, items related to the CARES Act grant programs, attending the Alaska Municipal League and Alaska Municipal Manager's Association Annual Summer Conferences (virtual), and attending COVID-19 emergency manager calls.



Please contact me at [mtesche@aeboro.org](mailto:mtesche@aeboro.org) with any questions or comments.



To: Honorable Mayor Alvin Osterback and Aleutians East Borough Assembly  
From: Laura Tanis, AEB Communications Director  
Through: Anne Bailey, AEB Administrator  
Subject: Communications Director's Report to the Assembly  
Date: Sept. 3, 2020

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### **Annual Report:**

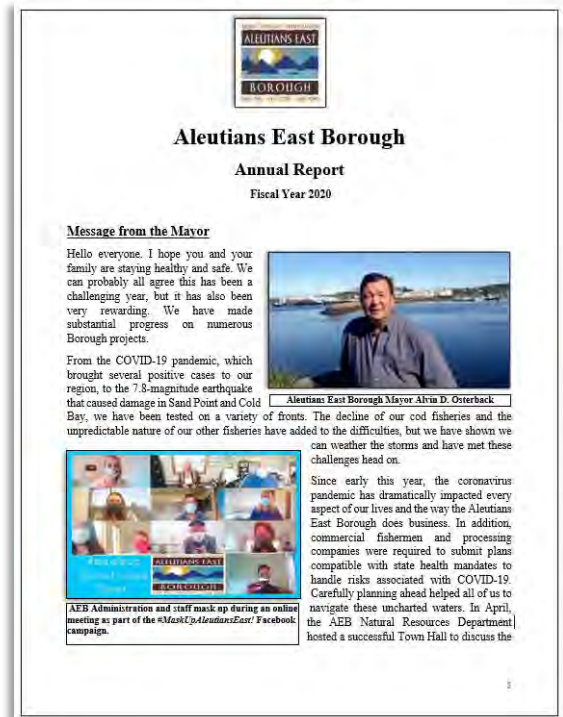
During the third week of August, content for the Borough's annual report was wrapped up, including the last bit of information, such as revenues and expenditures, followed by edits, photo placement, proofreading and layout. Then I worked with the printer, checking hard copy and electronic proofs before approving and finalizing. The printer mailed out the annual reports to the region on September 1<sup>st</sup>, so they should have arrived by the date of this Assembly meeting.

### **In the Loop/Facebook:**

We sent out In the Loop newsletters on September 1<sup>st</sup> and August 27<sup>th</sup>. The most recent newsletter included information about a grant for Borough residents who are 18 years and older (as of March 1<sup>st</sup>) who can demonstrate need, following COVID-19 and its effects. The Emergency Assistance and Economic Stimulus grant, part of the CARES Act program, is designed to help offset the negative impacts from COVID-19. We sent this information out in In the Loop and posted it to Facebook, which included a link from our website with instructions as well as to the grant application itself. The grant is open Sept. 1<sup>st</sup> through November 15<sup>th</sup>.

The newsletter also included a Notice of Offices to be filled, for the Borough's regular election of October 6<sup>th</sup>. The dates to file a Declaration of Candidacy were August 24<sup>th</sup> through September 4<sup>th</sup> for the open seats of Borough Mayor, Assembly Seats A and F and School Board seats C & D.

In addition, the newsletter included a link regarding the school district's amended administrative requirements for travel to school sites into the Borough. The link takes you to a letter from Superintendent Patrick Mayer. It includes guidelines for students and staff who have traveled



outside of their community or who have had close contact with an individual who traveled outside their community. The guidelines include requirements for COVID-19 testing on the 1<sup>st</sup>, 7<sup>th</sup> and 14<sup>th</sup> day after returning. Other details about mask-wearing, quarantining and when it's appropriate for students to return to class and employees to work, are contained in the letter.

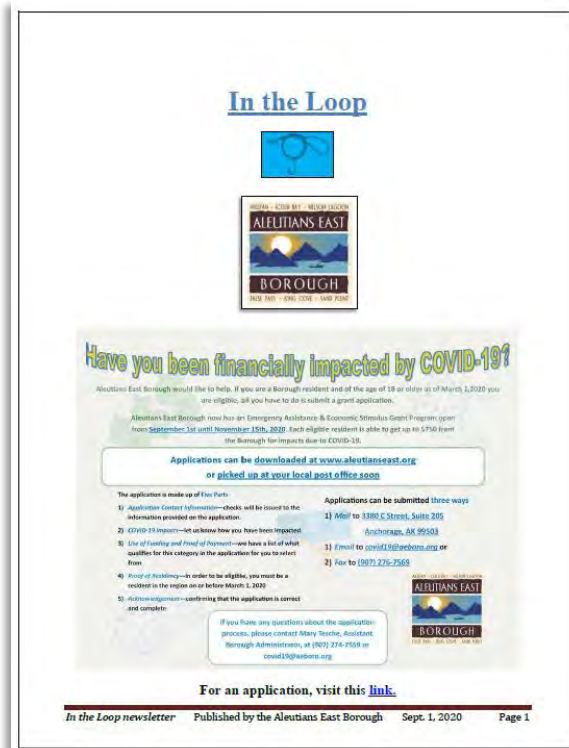
Another important item included highlighting the importance of completing the Census. The Census Bureau is working to complete data collection by September 30<sup>th</sup>. As mentioned before, when Alaskans go uncounted, communities lose out on important federal funding for local public services, such as for building roads and infrastructure, and public services for children, veterans, seniors and families. So, it's very important to respond to the Census, if you haven't already done so.

### **#MaskUpAleutiansEast**

I've been working with Mary in posting photos on AEB's Facebook page of Administration and staff wearing their masks and including why it's important to them. We'd like to encourage more people from the region to participate and share photos of themselves wearing a mask and including brief information about why it's important to do so.

### **Harbormasters Association Conference:**

A project I work on every year for Borough Administration is our PowerPoint presentation for Mayor Osterback to present at the annual Alaska Association of Harbormasters and Port Administrators. This year's annual conference will be held in Nome, according to their website. The dates are to be determined. I will be working with Administration to provide the most-up-to-date information on our harbors and docks.



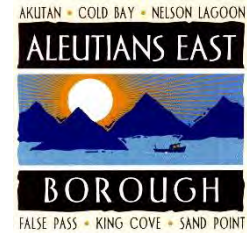
### **Recent Meetings Attended:**

<b>State of Alaska Emergency Managers Meeting</b>	<b>teleconference</b>	<b>9/2, 8/26, 8/19</b>
<b>AFISH</b>	<b>Zoom</b>	<b>8/26, 8/19</b>
<b>Borough – Communities</b>	<b>teleconference</b>	<b>9/3, 8/27, 8/20</b>
<b>Strategic Planning Meeting w/PGS</b>	<b>Google Meet</b>	<b>9/8</b>
<b>Anne Bailey/Mary Tesche – PR/Marketing</b>	<b>Microsoft Teams</b>	<b>8/21</b>
<b>Staff Meeting</b>	<b>Microsoft Teams</b>	<b>8/18</b>
<b>Facebook Mask Campaign Discussion – staff</b>	<b>Microsoft Teams</b>	<b>8/14</b>

I continue to work on other day-to-day tasks and projects.

As always, I'm happy to help get the word out about events/issues going on in your community. Please feel free to contact me and let me know how I can help.

To: The Honorable Mayor Osterback, Aleutians East Borough Assembly  
From: Ernie Weiss, Natural Resources Director  
Subj: Report to the Assembly  
Date: September 4, 2020

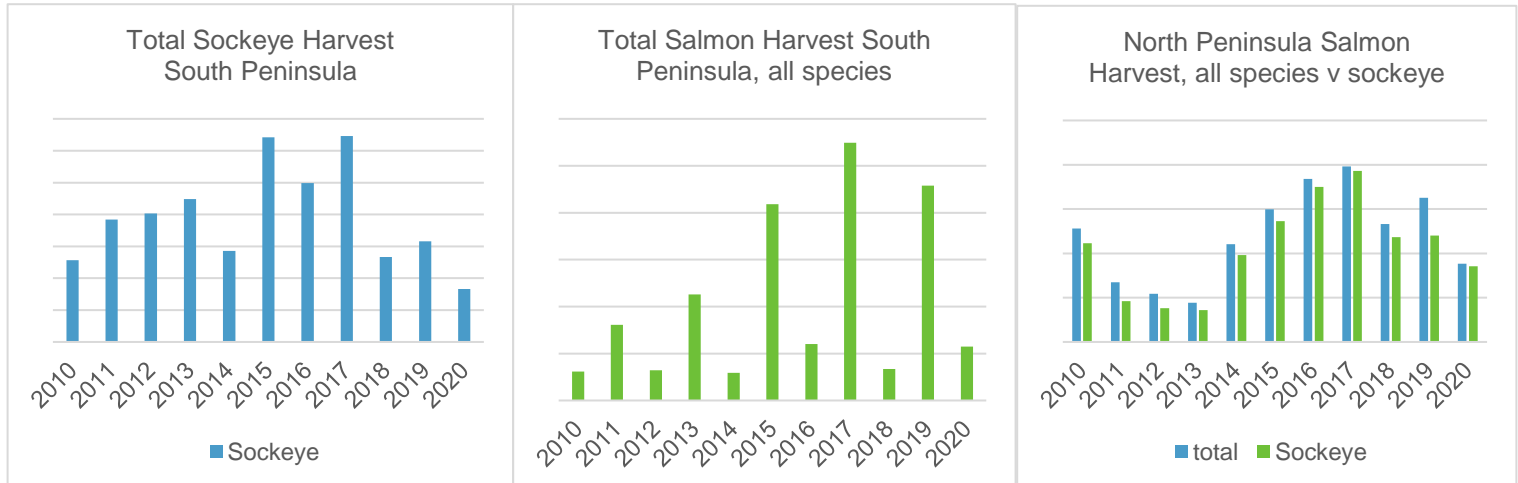


### **AEB Land Survey Projects**

Due to circumstances beyond their control, including COVID-19, AEB land surveyor McClintock Land Associates was unable to complete DNR required work for the AEB by the end of the contract periods for both the Sandy River and Bear Lake projects. All field work and travel for both projects is complete. MLA expects costs for finishing both projects to come in significantly under budget and MLA has prioritized both projects for completion. The AEB granted an extension of the period of performance for both projects until June 30, 2021.

### **Salmon Season**

Another commercial salmon opener is scheduled Sept 7 through Sept 12 for some sections in the South Peninsula. Using data through Sept 1<sup>st</sup> I made some comparisons of this salmon season compared to previous years: (Also see [memo](#) prepared for the Mayor)



2020 season will be the lowest total number of sockeye harvested in the South Pen since 2001, however numbers of pink salmon in 2020 exceeds all previous *even years* harvest since 2008. Salmon are generally smaller in size this year. Ex-vessel price for sockeye is the lowest since 2015.

### **Board of Fish**

The Agenda Change Requests for this cycle are posted and there are no published ACRs related to Area M. The Work Session to consider ACRs is scheduled for October 15-16. Proposal books are expected to be out soon, including for the Statewide Shellfish meeting in March 2021. The Board will meet Sept 16 to discuss the meeting schedule in light of COVID-19 challenges.

This week AK Senate Resources and the Joint House Fisheries & Resources committees held hearings considering the Governor's recent appointees to the Board:

- McKenzie Mitchell of Kodiak is an 11-year resident of Alaska with experience in hunting and fishing lodges and recreational quota entities.
- Abe Williams is a lifelong Alaskan and Bristol Bay fishermen who currently works for Pebble.
- John Wood has a long history working with Gov Dunleavy. In his current contract with the State, Wood reports directly to the Governor.
- John Jensen is the longest currently serving Board member, a reappointment.

There is opposition to several of the Board of Fish appointees. I plan to record some insights from the recent legislative BoF appointee committee hearings in an upcoming Fish News, working with Laura.

### **North Pacific Fishery Management Council**

Initial Review of the BSAI Halibut ABM analysis (C6) is scheduled for one-third of the October NPFMC meeting time, 12 hours. The Council will review the Observer Annual Deployment Plan and committee reports including Trawl EM (C5). Another item of great interest is D1 Survey Planning including reports from the AFSC and the SSC Survey Subgroup, that met Aug 28<sup>th</sup>.

The Council will meet early for one day Oct 2 right after the SSC meets to adopt BSAI crab specs for BS Tanner, BS Snow, BBRKC and SMBKC, also to elect officers. ADFG will set the crab TACs soon after Oct 2 and crab season opens Oct 15. Crab Plan Team meets Sept 14-17. Council will also have a first look at groundfish specs in October, with final specs determined in December. Groundfish plan team meets 9/8/20 – 9/11/20 and again in November.

**Public Comment** – The AMHS Reshaping Work Group is expected to submit recommendations to the Governor by Sept 30. Mayor Osterback submitted [written comments](#) in response to a call for comments.

The AEB has agreed to be a signatory, along with other Alaska Fishing Communities, on a letter to the AK Delegation in support of the USPS bypass mail program.

### **Redistricting Board**

The 5-member 2020 Alaska Redistricting Board is set:

- E. Budd Simpson of Juneau (R) selected by AK Governor
- Bethany Marcum of Anchorage (R) selected by AK Governor
- John Binkley of Fairbanks, (R) selected by AK Senate President
- Nicole Borromeo of Anchorage (U) elected by AK House Speaker
- Melanie Bahnke of Nome, (U) selected by Alaska Chief Justice

The Board met for the first time September 1<sup>st</sup> and will meet again on the 10<sup>th</sup>. The Board must adopt a plan 90 days after they receive the 2020 Census data, which is due March 31<sup>st</sup>, 2021.

[Ernie Weiss](#)  
[Strategic Plan](#)  
[2<sup>nd</sup> quarter update](#)

### **Recent meetings attended**

NPFMC SSC Survey Subgroup	AdobeConnect	Aug 28
Senate Resources Committee BoF appointees	webcast (archive)	Aug 28
House Fisheries & Resources Joint Cmte. BoF	webcast	Sept 3
AMHS Reshaping Work Group	webcast	Sept 3
Alaska Fishing Communities meeting	Zoom	Sept 4

### **Upcoming meetings/planning to attend**

Groundfish Plan Team Meeting	AdobeConnect	Sept 8-11
Crab Plan Team	AdobeConnect	Sept 14-18
NPRB Advisory Panel	Zoom	Sept 15-16
Partial Coverage Fishery Monitoring Advisory Cmte (CL)	AdobeConnect	Sept 16
EM Trawl Committee (CL)	AdobeConnect	Sept 17
Social Science Planning Team	AdobeConnect	Sept 21
North Pacific Fishery Mangt Council	AdobeConnect	Sept 28-Oct 15
Board of Fisheries Work Session	TBD	Oct 15-16

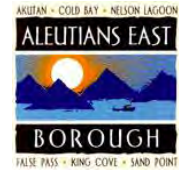
### **Plan to monitor**

AMHS Reshaping Work Group closing meeting	webcast	Sept 10
Redistricting Board	teleconference	Sept 10
Board of Fish Special meeting COVID-19	teleconference	Sept 16

Please call if you have any questions or concerns.

[www.aebfish.org](http://www.aebfish.org) [www.facebook.com/AEBfish](https://www.facebook.com/AEBfish) [eweiss@aeboro.org](mailto:eweiss@aeboro.org) 907-274-7557 9/4/2020

To: Honorable Mayor Osterback, Aleutians East Borough Assembly  
From: Charlotte Levy, Natural Resources Assistant Director  
Re: Report to the Assembly  
Date: September 10th, 2020



## **Projects**

### **Electronic Monitoring - WGOA2/EFP:**

- The pollock C season officially closed Sept 3rd at 12p. The fishery started on time and went very fast, so when issues came up there was very little time to resolve them or contact the fleet before the fishery ended. Primary concerns included: processors inputting TEM modifier, observer shortage, vessel logbooks and system checks, overestimating hail weights.
- Observer services have caused a major issue in C season. Sand Point was only staffed with 2 observers (per NMFS original suggestion) and they were severely understaffed, leading to large data gaps. Due to the strict protocols in place by the processors, it was impossible to get additional observers in time for the season. We are working on a plan to get extra observers from Kodiak to SP, but it will be at the discretion of the processor.
- Silver Bay did not operate in False Pass, but they did custom process at another EFP plant. This allowed them to participate in the EM program. I coordinated with the plant to ensure they were briefed on WGOA protocols, as they do not typically receive tendered GOA fish.
- PP did not have vessels participating; however they expressed concerns about not having enough EM tenders to support their fleet. We are working to provide them with a mobile system for D season.
- I am currently preparing an interim report to the Trawl EM Committee meeting Sept 17th. I will provide this report to the Assembly. We will also be making recommendations to the Council for project priorities, which I will recommend work to allow cross-use of EM between trawl/fixed-gear.

### **NGA Fishermen's Data Portal:**

- I have had several meetings to discuss the Intellectual Property clause and IP licensing appropriate for the project. We have decided to make all software/code open source (either MIT or GNU GPLv3).
- We created a simple [MOU with Intertidal](#) outlining roles and responsibilities; all subcontracts and SOW have been completed.
- I am working with plants to get direct access to eLandings; Chordata is finishing eLog development.

### **Mariculture:**

- I met with Anne and Mayor Osterback regarding travel to the region to complete field work for the NFWF project. I will present a detailed Covid plan for review, before AEB decides whether to allow travel.
- I received all lease documents and deliverables required from ADNIR. I am working with ADNIR staff to complete and return documents, then ADNIR can sign and authorize the kelp farm lease.
- I am collaborating with Dr. Sandra Lindstrom of UBC to provide *Macrocystis* samples from Sand Point for a [genetic analyses project](#). We recently discovered this species in the area, its an exciting discovery!

[My Strategic Plan update can be found here](#)

# Assembly Comments

# Public Comments

# Date & Location of Next Meeting

# Adjournment