

**SENATE AND HOUSE
JOINT JOURNAL SUPPLEMENT**

January 18, 1996

Thursday

No. 17

**RECOMMENDATIONS BY THE
ALASKA LOCAL BOUNDARY COMMISSION**

in accordance with AS 44.47.567

and

Article X, Section 12

Constitution of the State of Alaska

January 18, 1996

Juneau, Alaska

The following proposed local boundary changes, in accordance with AS 44.47.567(b)(2), by the Alaska Local Boundary Commission are incorporated in their Annual Report. A complete copy of the report may be obtained from the Department of Community and Regional Affairs.



**CHAPTER 3 - ACTIONS REQUIRING
LEGISLATIVE REVIEW**

This chapter presents two formal recommendations of the Commission to the Second Session of the Nineteenth Alaska Legislature for boundary changes pursuant to Article X, Section 12 of Alaska's constitution. The first recommends detachment of an estimated 252 square miles from the Matanuska-Susitna Borough. The second recommends annexation of approximately 83.71 acres to the City of Wasilla.

Under the constitution and statutes, these recommendations receive automatic legislative approval, unless rejected by a concurrent resolution adopted by the House and Senate within 45 days of the date that the recommendations were filed (or at the end of the session, whichever is earlier). Forty-five days from the date of filing of these recommendations is March 2, 1996.

The recommended boundary changes will take effect only upon tacit legislative approval, satisfaction of any conditions imposed by the Commission, and demonstration of compliance with the federal Voting Rights Act.



Local Boundary Commission

Darroll Hargraves, Chairperson
Kathleen S. Wasserman, Vice-Chairperson, First Judicial District
Nancy E. Cannington, Member, Second Judicial District
H. Toni Salmeier, Member, Third Judicial District
William Walters, Member, Fourth Judicial District

RECOMMENDATION NUMBER ONE OF THE LOCAL BOUNDARY COMMISSION TO THE SECOND SESSION OF THE NINETEENTH ALASKA LEGISLATURE

A recommendation for detachment of the Lake Louise area, encompassing approximately 252 square miles, from the Matanuska-Susitna Borough

SUMMARY OF PROCEEDINGS

On April 10, 1995, resident voters in the Lake Louise area submitted a petition to the Alaska Department of Community and Regional Affairs (DCRA) for detachment from the Matanuska-Susitna Borough (MSB). The petition proposed detachment of the territory into Alaska's unorganized borough.

The territory proposed for detachment encompassed an estimated 648 square miles, including Lake Louise, Susitna Lake, Tyone Lake and Tyone River. According to the petition, the area is inhabited by 39 residents.

DCRA accepted the petition for filing following its technical review of the document on April 13, 1995. Public notice of the filing of the petition was subsequently given by publication, posting and through the mail. A copy of the petition was served on the MSB. A copy of the petition was also made available for public review at Lake Louise.

The public notice invited responsive briefs and comments on the petition to be filed with DCRA by June 15, 1995. The MSB filed a timely 136-page responsive brief in opposition to the petition. Sixty-three individuals wrote timely letters in support of the petition. On July 17, 1995, the Petitioners filed a 47-page brief in reply to the Borough's responsive brief.

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DCRA issued a 72-page draft report regarding the detachment proposal on October 3, 1995. November 1 was established as the deadline for comment on DCRA's draft. The report was distributed to more than 80 individuals and organizations. Fourteen individuals, including the Petitioners and the MSB, submitted comments on the draft. The written comments totaled 79 pages.

On November 15, DCRA issued its final report and recommendation on the detachment proposal. The 24-page final report was presented as a supplement to the 72-page draft. The final report affirmed DCRA's draft recommendation that the Commission approve the detachment of an estimated 252 of the 648 square miles petitioned for detachment. Further, the final report reiterated recommendations in the draft report that the Commission impose stipulations requiring the Lake Louise area to: (1) assume a proportional share of the Borough's bonded indebtedness, (2) reimburse the Borough for a proportional share of its local contribution in support of education for two years, and (3) assume responsibility for a sewage management site at Lake Louise. Ninety-three copies of the report were distributed to interested parties.

The Commission conducted two hearings on the petition. The first was held at the Point Lodge at Lake Louise on December 7, 1995 from 1:00 p.m. to approximately 7:00 p.m. The second was held at the Wasilla City Council Chambers on December 8 from 3:15 p.m. to approximately 10:00 p.m. Immediately following the hearing on December 8, the LBC voted unanimously to approve an amended the petition with boundaries reduced to encompass 252 square miles. The Commission also stipulated that detachment not occur unless and until Lake Louise is included as part of another organized borough within two years of tacit approval of this recommendation.

On December 15, the LBC adopted a 14-page statement of the major considerations that led to its decision to approve detachment. Copies of the statement were sent to the Petitioners and the MSB on the same date. Under 19 AAC 10.580, January 4, 1996, was established as the deadline for requests for reconsideration in the matter.

On December 20, the Petitioners filed a 12-page request for reconsideration. The Petitioners asked the Commission to modify its December 15 decision to allow detachment upon the alternative of forming a second class city. On December 27, the LBC unanimously agreed to reconsider its decision to as requested by the Petitioners.

On January 4, 1996, the Matanuska-Susitna Borough filed a separate request for reconsideration. The Borough asked the Commission to amend its December 15 decision to stipulate that the Borough be held harmless by Lake Louise with regard to financial impacts relating to education funding, bonded indebtedness and other considerations.

On January 8, the Petitioners filed a 9-page brief in support of the proposed modification of the December 15 decision to allow detachment upon incorporation of a city. On the same date, the MSB filed a 15-page brief opposing the Petitioners' proposal.

The LBC met on January 12 at Palmer in the Borough Assembly Chambers to address the requests of the Borough and the Petitioners. The Commission denied the Borough's request for reconsideration, stressing that the substance of the request could be addressed in the context of the Petitioners' proposed modification. The Commission subsequently approved the Petitioners' request to modify its December 15 decision. The Commission added several stipulations, including provisions to hold the Borough harmless in terms of debt service and education funding.

The Commission's findings, conclusions and specific recommendations concerning this matter follow.

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FINDINGS AND CONCLUSIONS

The Commission was guided in this matter by three principal considerations. The first was Article X, Section 1 of the Constitution of the State of Alaska. In relevant part, it provides that, "*The purpose of this article is to provide for maximum local self-government with a minimum of local government units . . .*"

The second principal consideration was Article X, Section 3 of the Constitution of the State of Alaska. In relevant part it provides that, "*Each borough shall embrace an area and population with common interests to the maximum degree possible.*"

The third principal consideration was the standard for detachment from boroughs set out in 19 AAC 10.270. It provides as follows:

(a) In addition to the requirements of AS 29.06, territory may be detached from a borough or unified municipality if the commission determines that the detachment will serve the balanced best interests of the state, the territory to be detached, and the political subdivisions affected by the detachment. In this regard, the commission will, in its discretion, consider relevant factors, including

(1) the health, safety and general welfare of the borough or unified municipality and the territory after detachment;

(2) the ability of the borough, unified municipality, or other governmental entity to efficiently and effectively provide reasonably necessary facilities and services to the territory after detachment;

(3) the reasonably anticipated potential for, and impact of, future population growth or economic development that will require local government regulation in the territory after detachment;

(4) the historical pattern of providing to the territory municipal services that have been, or should be, supported by tax levies in the territory;

(5) the historical pattern of cooperation and shared commitment between the people of the borough or unified municipality and the people of the territory;

(6) the extent to which detachment might enhance or diminish the ability of the remaining borough or unified municipality to meet the standards for incorporation contained in the Alaska Constitution and AS 29.05 and 19 AAC 10.045 - 19 AAC 10.060;

(7) the extent to which a transition plan of a previous annexation has been implemented and is effective;

(8) the effect of the proposed detachment on the long-term stability of the finances of the remaining borough or unified municipality, other municipalities, and the state;

(9) whether the proposed detachment will promote local self-government with a minimum number of governmental units; and

(10) whether the territory's requirements for local government services will be adequately met following detachment.

(b) If, to fulfill the requirements of (a)(10) of this section, petitioners have proposed, or the commission requires, incorporation of the territory into a new municipality, the commission will, in its discretion, condition the approval of the detachment upon voter approval of the incorporation.

The reference in 19 AAC 10.270(a) to additional requirements of AS 29.06, is made with regard to AS 29.06.040. That deals with the requirement for either legislative review or a local election in the event the Commission grants a petition for detachment.

There are no standards for detachment established in statute. However, AS 44.47.567(a)(2) gives the Commission the power and duty to establish such standards by regulation. The Commission fulfilled its duty by adopting 19 AAC 10.270 addressed earlier.

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Based on: (1) the petition for detachment, (2) MSB's responsive brief, (3) letters from 63 parties who commented on the petition, (4) the petitioners' reply brief, (5) DCRA's draft report, (6) comments from the 14 parties on DCRA's draft report, (7) DCRA's final report, and (8) testimony at the December 7 and 8 hearings, (9) requests for reconsideration of the December 15 decision filed by the Petitioners and the MSB, (10) briefs from the MSB and the Petitioners concerning reconsideration, and (11) communications at the January 12 meeting, the Local Boundary Commission makes the findings and conclusions set out in this section.

A. REGARDING THE PUBLIC POLICY IMPORTANCE OF ARTICLE X, § 1 OF ALASKA'S CONSTITUTION

As noted previously, Article X, § 1 of the Constitution of the State of Alaska calls for maximum local self-government. That section of the constitution has been viewed by the Alaska Supreme Court as encouraging the creation of borough governments. Further, the Supreme Court reads the provision to favor upholding organization of boroughs by the Local Boundary Commission whenever the requirements for incorporation have been minimally met.

The Commission finds that, as a matter of public policy, great importance should be placed on the constitutional provision calling for maximum local self-government. The Commission further finds that detachment of territory from an organized borough to the unorganized borough results in a serious diminution of local self-government. Consequently, both the factors and the standard set out in the previously listed provisions of 19 AAC 10.270(a) will be prejudicially affected by any proposal to detach territory from an organized borough to the unorganized borough.

Based on the foregoing findings, the Commission concludes that any detachment from an organized borough to the unorganized borough is to some degree contrary to the provisions of Article X, § 1 of Alaska's constitution. Approval of the detachment petition as presented would, in fact, remove local self-government from Lake Louise. This would not, however, be the case if the territory were being detached to become part of another organized borough or part of a city government within the unorganized borough.

B. REGARDING ARTICLE X, § 3 OF ALASKA'S CONSTITUTION AND LAKE LOUISE'S INTERRELATIONSHIPS

As noted previously, Alaska's constitution mandates that each borough embrace an area and population with common interests to the maximum degree possible. The Commission takes the position that this particular provision is consistent with the standard relating to the balanced best interests of the State, the territory and the affected political subdivisions.

Further, the Commission takes the position that Article X, § 3 of Alaska's constitution applies to all boroughs, organized and unorganized. It is apparent to the Commission that the 1961 legislature, in providing for a single residual unorganized borough encompassing all of the state not within organized boroughs, failed to adhere closely to the principle of Article X, § 3. Consequently, the Commission has difficulty applying the principle in this instance. The Commission is concerned with the suggestion that it should compare Lake Louise to the MSB vs. the Copper River Basin - the latter being only a small part of the unorganized borough. If the Copper River Basin were an organized borough or even an unorganized borough unto itself, the provisions of Article X, § 3 would take on much different dimensions, and the proposal's compliance with Article X, § 3 could be balanced against its compliance with Article X, § 1. That is, the effect of the proposal on local self-government could be weighed against its impact on ensuring "common interests".

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The constitutional principle is examined in the context of Lake Louise's interrelationships. The Commission makes the following findings in this regard.

Primary and Secondary Education. Students from Lake Louise attend schools operated by the Copper River Regional Educational Attendance Area. Historically, these have included the Lottie Sparks and Glennallen schools, respectively located approximately 33 and 45 miles from Lake Louise. Lake Louise students have the option of attending the MSB's Glacier View School, located about 74 miles from Lake Louise. However, public transportation to the Glacier View School is not provided by the MSB for Lake Louise students. Those students also have the option of correspondence study offered by the MSB. The MSB correspondence study program requires once-a-month trips to Wasilla during the school year. Alternatively, Lake Louise students may receive education services through the State's correspondence study program.

Higher Education. Some residents of Lake Louise currently attend, at least on a part-time basis, college classes through the Prince William Sound Community College. The community college has a campus at Glennallen.

State Judicial Services. Lake Louise is within the Palmer District and Superior Court venues established under Alaska Rules of Court, CrR 18(a). However, just as Lake Louise is served by a school district other than the one in which it is formally located, Lake Louise receives State judicial services from Glennallen. Glennallen has a deputy magistrate who handles certain district court matters (AS 22.15.120). Glennallen has no district court judge or superior court judge. Historically, matters beyond the authority of the magistrate but within the jurisdiction of the superior court have been typically heard by the superior court judge in Valdez. It was recently reported, however, that the Valdez Superior Court position is to be transferred to Palmer.

State Trooper Service. Lake Louise residents are typically served by the Glennallen Detachment of the State Troopers. That same detachment routinely operates to milepost 110 of the Glenn Highway.

Service by Other State Agencies. In addition to State education services, trooper services and judicial services, it appears that State agencies in Glennallen and the immediate vicinity are more likely to serve the needs of Lake Louise residents than are agencies located in Palmer or Wasilla. These include the following:

- Department of Fish and Game, Game Division;
- Department of Fish and Game, Sport Fish Division;
- Department of Labor, Alaska Employment Service;
- Department of Natural Resources, Division of Forestry;
- Department of Natural Resources, Division of Parks;
- Department of Transportation (Nelchina Station);
- Department of Public Safety, Fish & Wildlife Protection Division;
- Department of Public Safety, Division of Motor Vehicles;
- Division of Social Services (Copper Center);
- Glennallen Health Center, Public Health Nurse; and
- Legislative Affairs Agency.

U.S. Postal Service. Lake Louise receives mail service from the U.S. Post Office in Glennallen. On July 1, 1995, mail service from the Glennallen Post Office was extended to milepost 120 of the Glenn Highway.

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Service by Other Federal Agencies. In addition to mail service, it is reasonable to assume that federal agencies with offices in Glennallen and the vicinity serve Lake Louise residents. These include the following:

- Department of Commerce, NOAA/National Weather Service (Gulkana);
- Department of the Interior, Bureau of Land Management;
- Department of the Interior, Wrangell - St. Elias National Park & Preserve;
- Department of Transportation, Federal Aviation (Tahneta Pass); and
- Department of Transportation, Flight Service Station.

Telephone Service. Lake Louise is served by the Copper Valley Telephone Cooperative through the use of radio telephones. The utility's telephone service extends to milepost 120 of the Glenn Highway.

Economic Development. Testimony was given that the Copper Valley Economic Development Council (the Alaska Regional Development Organization formed under AS 44.33.026) informally serves the Lake Louise area.

Lake Louise businesses are also active members of the Greater Copper River Valley Chamber of Commerce. It was also noted that two Lake Louise residents were recently elected to the board of directors of the Greater Copper River Valley Chamber of Commerce. One of the two was also elected to a two-year term as President of the Chamber of Commerce.

Commerce. Many of the Lake Louise residents and property owners who wrote comments in support of the detachment proposal stressed that they routinely shop in the Glennallen vicinity. Some indicated that to the extent that they do not shop in Glennallen for major purchases or specialty items, they bypass businesses in the MSB and shop in Anchorage.

Assuming that businesses advertise where their existing and prospective patrons are, DCRA reviewed the yellow pages of the telephone directory used by Lake Louise residents. DCRA reported 298 listings in the Copper Valley Telephone Cooperative yellow pages for businesses in the Glennallen vicinity. Anchorage was close behind with 246 listings. Businesses in Palmer and Wasilla had 15 and 27 listings, respectively. The figures for commerce did not include listings for health and social services, religious organizations and clubs, all of which were reported separately by DCRA.

Private Social and Health Services. The Cross Road Medical Center in Glennallen is a primary care medical facility. It is staffed by one physician, one physician's assistant and one nurse practitioner. The Cross Road Medical Clinic operates an emergency room open 24 hours each day.

In its responsive brief, the MSB indicated that the lack of a major medical facility in the Glennallen area presupposes that *"Lake Louise residents would use the medical facilities in the Palmer, Wasilla or Anchorage area. In addition, if a specialty medical problem arises, the residents of the area would likely use specialists in either Wasilla, Palmer or the Anchorage area, because there are limited doctors in their area."* (MSB Brief, Exhibit P)

DCRA reported that during the 18 months from January 1, 1993 to June 30, 1995, 19 individuals with a Glennallen/Lake Louise zip code were treated at the Valley Hospital in Palmer on an inpatient basis. In addition, 30 people with a Glennallen/Lake Louise zip code were treated at the Valley Hospital on an outpatient basis. Of the 30 outpatients, 25 involved emergency room visits, 4 involved outpatient surgery and 1 was hospitalized for "observation".

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DCRA reported 22 listings in the Copper River Valley Telephone Cooperative yellow pages for private health and social service providers located in the Glennallen vicinity. These included health counseling services, clinics, physicians, dentists, drug abuse treatment facilities and the like. Forty-three such listings were counted for the Anchorage area; one was counted from Palmer and four were counted from Wasilla.

Religious Organizations. Some of the Lake Louise residents who submitted written comments in support of the proposed detachment indicated that they attend church in Glennallen. DCRA counted 13 churches and religious organizations in the Glennallen vicinity listed in the yellow pages of the Copper Valley Telephone Cooperative. No listings were included for religious organizations based in Anchorage, Palmer or Wasilla.

Social Clubs. Two social clubs in the Copper Valley yellow pages were from Glennallen. No clubs in Palmer or Wasilla were listed, while 2 clubs in Anchorage were listed.

Electrical Utility Service. The Copper Valley Electrical Cooperative's power lines run westerly more than 50 miles past the Lake Louise cutoff to milepost 108 of the Glenn Highway. However, its utility service is not currently available at Lake Louise. Lake Louise residents generate their own electricity.

Commercial Broadcast Radio Coverage. Lake Louise receives radio broadcasts from KCAM-AM, a 5,000 watt station based in Glennallen. KCAM's primary coverage area includes the Copper River Basin, but extends to the Sheep Mountain area at approximately milepost 115 of the Glenn Highway. Lake Louise is also served by KCHU-FM, a public radio station headquartered in the Prince William Sound region. KCHU's primary coverage area extends to the Gunsight Mountain area at approximately milepost 123 of the Glenn Highway. In July, KCAM staff expressed the belief that one or more Anchorage stations were constructing translators to extend service to the Glennallen region.

Newspapers. The *Copper River Country Journal* (circulation 1,800), headquartered in Glennallen, is provided by mail without charge to all Copper River residents. Lake Louise residents are included, since the editor of the Journal considers them to be part of the Copper River basin. The same applies to the area extending to approximately milepost 120 of the Glenn Highway. The *Copper River Country Journal* also sends complimentary copies of the paper as far west as milepost 102 of the Glenn Highway as a courtesy to an area at the gateway of the Copper River Basin. The editor of the Journal advised DCRA that the MSB occasionally publishes public notices in, and provides news reports to, the *Copper River Country Journal*, "but not as often as it should."

The *Frontiersman* (circulation 7,000) and the *Valley Sun* (circulation 9,500), published by the Mat-Su Valley Newspapers, in Wasilla, serve the central MSB area. The latter is a free weekly shopper. According to Mat-Su Valley Newspaper staff, the *Valley Sun* had been provided to the Glennallen area until February or March of 1995 when the practice ended. The *Valley Sun* newspaper rack currently nearest to Glennallen is located in Palmer. The *Valley Sun* is distributed free of charge by mail to residents as far east as Chickaloon, at milepost 76 of the Glenn Highway.

The *Frontiersman* provides news coverage of the area within the entire MSB. However, like the *Valley Sun*, its newspaper rack nearest to Lake Louise is located at Palmer. The Mat-Su Valley Newspaper staff indicated that there is only one subscriber with a Glennallen/Lake Louise zip code.

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Emergency Medical Service. The MSB's EMS dispatching staff indicated that the MSB's ambulance located at Sutton consistently responds to calls from milepost 54 to milepost 123 of the Glenn Highway. The area from milepost 123 to milepost 140 is considered a "mutual aid area." For calls in that area, the MSB dispatches the Sutton ambulance, but immediately thereafter checks with the Copper River EMS Council to see if it is available to respond. If it is available, the Sutton ambulance is recalled.

The MSB's EMS dispatcher noted that the MSB has an obligation to respond to calls at Lake Louise, but conceded that the distance for the Sutton ambulance was so great as to render it much more practical to obtain service from Glennallen. The MSB notes in its brief that it "*has negotiated an agreement with the Lifeguard helicopter to medivac injured individuals out of the [Lake Louise] area.*" It is noteworthy, however, that because Lake Louise and the area extending to milepost 120 of the Glenn Highway are on the Copper Valley Telephone system, 911 calls from that area will be received in Glennallen whenever the dispatcher is on duty. When the dispatcher is not on duty, the calls are forwarded to Anchorage.

Seven Lake Louise residents received 40 hours of "Emergency Trauma Technician Training" in October of 1995. The training was funded by the Lake Louise Community Non-profit Corporation and was provided by "Copper River Emergency Medical Services."

Libraries. The Copper Valley Community Library, operated by a non-profit corporation in Glennallen, serves the Copper River Basin. As of June of last year, it was open 25 hours per week. At that time the library held 5,000 books, 500 video materials and 50 subscriptions. The total circulation of books and other library materials at the Glennallen library for the year ending June 30, 1994, was 17,389 items. Staff at the Glennallen library indicated that Lake Louise residents use that library, although they were unable to provide any statistics concerning such patronage.

The public libraries nearest to Lake Louise that are in the MSB are at Sutton and Palmer. The Sutton library is open 35 hours per week and held 8,231 volumes of books and other materials at the end of fiscal year 1994. The Palmer library is open 36 hours per week and held 40,802 volumes at the end of last fiscal year. Officials of the public library system in the MSB report that seven patrons have Glennallen addresses (three are patrons of the Wasilla library and four are patrons of the Palmer library). It appears that none of the seven lives at Lake Louise. Two of the patrons are at milepost 156, one is at milepost 185, one is at Manker Creek and the rest appear to be at Glennallen.

De Facto Enclave Status. As far as travel by roadway is concerned, Lake Louise is an enclave separated from the rest of the MSB. The MSB's eastern boundary crosses the Glenn Highway at approximately milepost 137. The turnoff to Lake Louise is approximately 23 miles past that point at milepost 160 of the Glenn Highway. One re-enters the MSB at approximately milepost 14 of the Lake Louise Road. Thus, one has to travel approximately 37 highway miles through the unorganized borough to get from one part of the MSB to Lake Louise.

Native Regional Corporation Boundaries. Lake Louise is within the boundaries of the Ahtna Regional Corporation established under the Alaska Native Claims Settlement Act. The Corporation's boundary extends approximately to milepost 102 on the Glenn Highway. The vast majority of the remaining uninhabited portions of the MSB are within the boundaries of the Cook Inlet Regional Corporation. While regional corporation boundaries are, by definition, a measure of social and cultural ties among Natives, their importance in this proceeding is tempered by the fact that there are few Natives living in the Lake Louise area (the petition estimates the Native population to be only 5%).

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Property Ownership. Ownership by Copper River Basin residents of private taxable property at Lake Louise is minimal, amounting to only one-half of 1% of the acreage and less than three-tenths of 1% of its taxable value. Most of private taxable property in the territory proposed for detachment is owned by individuals who live in the Municipality of Anchorage (67.9% in terms of acreage and 61.4% in terms of assessed value). Residents of the MSB, exclusive of the Lake Louise area, own 11.5% of the acreage (10.7% in terms of its value), while residents of Lake Louise own 3.9% of the acreage (11.7% of its value).

House Election District Boundaries. Lake Louise is in State House Election District 27 which was established under the reapportionment plan adopted by then-Governor Walter Hickel on March 24, 1994. Election District 27 is wholly within the MSB. In addition to Lake Louise, it includes the communities of Palmer, Sutton and Chickaloon. The district occupies roughly the eastern two-fifths of the MSB.

The MSB claimed that because Lake Louise is in the same house election district as other parts of the MSB and that the district is wholly within the MSB, there exists, "a *prima facie* case that Lake Louise should not be detached from Mat-Su." (MSB's Brief, page 6) This contention is based on a recent case in which the Alaska Supreme Court held that, "a borough is by definition socio-economically integrated. It is axiomatic that a district composed wholly of land belonging to a single borough is adequately integrated. Thus, district 27 complies with that requirement." [*Hickel v. Southeast Conference*, 846 P.2d 38 (Alaska 1992)]

In that same case, the Court held that election districts must be "relatively" integrated. The Court explained that, " 'Relatively' means that we compare proposed districts to other previously existing and proposed districts as well as principal alternative districts to determine if socio-economic links are sufficient."

In addition to being relatively integrated, election districts must also be of an approximately equal population. Typically, the courts limit the maximum deviation between election districts to no more than 10%. In other words, because the Court presumes that a borough embraces an area and population with common interests to the maximum degree possible, it makes allowances for the use of borough boundaries as election districts. In fact, the Court is so willing to accommodate the use of borough boundaries that it will allow election districts to exceed a 10% population deviation if borough boundaries are consistently used as election district lines.

It is readily apparent from a comparison of borough boundaries and election district boundaries that the requirement for approximately equal population districts often dictates that election districts and organized borough boundaries differ. Some election districts encompass multiple organized boroughs in their entirety. Other election districts include portions of organized boroughs in less than their entirety.

Physiographic Characteristics. Lake Louise is in the Susitna River drainage as is much of the MSB. However, the Susitna Area Plan (DNR, 1985) describes the Lake Louise Subregion as, ". . . a unique and popular residential and visitor recreation area, with an 'interior' Alaska character quite different from the rest of the [Susitna drainage]."

The Talkeetna Mountain Range sometimes acts as a barrier to air traffic between Palmer and Lake Louise. Staff at the U.S. Department of Transportation FAA Flight Service Station in Glennallen roughly estimated that the Chickaloon/Tahnetta Pass between Upper Cook Inlet and the Copper River Basin was closed due to weather about 35 percent of the time.

Employment. The representative of the petitioners for detachment estimated that 11 Lake Louise residents are self-employed at the five businesses in the community. An additional seven Lake Louise residents are employed by those businesses on a full-time or part-time basis. It was further estimated that three residents work in the oil industry on the North Slope and one resident works for the U.S. Forest Service building cabins (presently in the Sitka area). The remainder of the residents are unemployed or not in the job market (i.e., retired, students or pre-school age residents).

Based on the foregoing findings, the Local Boundary Commission concluded that the 252-square mile area identified by DCRA in its report as that portion of the 648-square mile area proposed for detachment that is inhabited, developed and contains privately owned property, has more in common with Glennallen and the rest of the Copper River Basin than it does with the rest of the Matanuska-Susitna Borough.

C. REGARDING WHETHER DETACHMENT WILL SERVE THE BALANCED BEST INTERESTS OF THE STATE, THE TERRITORY TO BE DETACHED, AND THE POLITICAL SUBDIVISIONS AFFECTED BY THE DETACHMENT.

The Commission found that the principal effects upon Lake Louise of detachment in the manner proposed include the following:

1. elimination of the MSB's property taxes (FY '95 @ 16.7 mills; FY '96 @ 14.55 mills);
2. elimination of the MSB's 5% bed tax;
3. elimination of municipal authority in the area, including planning, platting and land use regulation;
4. in a de facto sense, voters in the area will be enfranchised regarding the school board;
5. the area will qualify for State Revenue Sharing and State Capital Matching grants;
6. the area would be responsible for its own solid waste collection; and
7. if DCRA's recommended stipulations were imposed, the area would be responsible for the Lake Louise septic management site.

The Commission also found that the principal effects of detachment upon the MSB include the following:

1. property tax revenues will be reduced by roughly 1/2 of 1% (\$180,000 in FY '95);
2. bed tax revenues will be reduced by an estimated \$2,000 annually;
3. funding under the State education formula will be increased by an estimated \$46,500 annually;
4. responsibility for Lake Louise solid waste collection would be eliminated;
5. responsibility for Lake Louise septic management site would be eliminated; and
6. Revenue Sharing, Municipal Assistance and Capital Grants reduced by an estimated \$3,500 annually.

The Commission found that the principal effects of detachment upon the State include the following:

1. education funding requirements would be increased by an estimated \$46,500 annually;
2. responsibility for replatting in the area would be assumed by the Department of Natural Resources;
3. Capital Matching grants program costs would likely increase by \$25,000 annually;
4. Revenue Sharing funds to other recipients would likely be diluted by an estimated \$7,327 annually;
5. Municipal Assistance Funding to other recipients would be concentrated by an estimated \$1,602 annually; and
6. the unorganized borough would be expanded which only worsens inequities involving organized boroughs vis-à-vis the unorganized borough.

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The Commission found that the health, safety and general welfare of the territory would be negatively affected if detachment occurs. This finding is based largely on the fact that detachment would eliminate local self-government from the territory. Consequently, it would greatly diminish the area's ability to meet the health, safety and general welfare needs of the community. The Commission found that the health, safety and general welfare of the remnant MSB would be minimally affected by the detachment.

The Commission found that the Copper River Regional Educational Attendance Area is able to efficiently and effectively provide educational facilities and services to the territory. The Department of Environmental Conservation will continue to have regulatory authority over water quality in the area if detachment occurs. Authority for municipal planning, platting and land use regulation will be eliminated.

Regarding the reasonably anticipated potential for future population growth or economic development and the need for local government regulation, the Commission found that the residents of the area are genuinely motivated to ensure proper development in the territory. They are particularly motivated to maintain high water quality since Lake Louise serves as their principal source of potable water. However, leaving a municipal government diminishes their ability to ensure proper development and to maintain high water quality. Additionally, DCRA also reported that the Department of Natural Resources is selling 23 parcels on Lake Louise encompassing 91.27 acres. The sale of that land will add to development pressures in the territory.

Regarding the historical pattern of providing to the territory municipal services that have been or should be supported by tax levies in the territory, the Commission found that the level of services is clearly not to the satisfaction of the residents of Lake Louise. The lack of satisfaction may be due in part to the lack of communication on the part of both sides in this issue. The MSB's services available to the area include solid waste disposal, planning, platting, land use regulation, tax assessment, tax collection, education services through correspondence study and other functions. Residents of Lake Louise choose not to avail themselves of some of the services offered by the MSB on an areawide and nonareawide basis. Nonetheless, those services must be funded in part by property taxes. There are parts of the MSB that receive even fewer services than those provided to the Lake Louise area. Detachment of the territory on the basis of the lack of services could lead to a landslide of other detachment proposals that could, in turn, seriously diminish the MSB's ability to pay for the services that are necessary.

Regarding the historical pattern of cooperation and shared commitment, the Commission found that there is greater social, cultural, economic and other ties between the Lake Louise area and the Copper River Basin than there is between the Lake Louise area and the rest of the MSB. It appears reasonable to conclude that this circumstance will not change in the foreseeable future. This particular factor has greater significance than others listed in 19 AAC 10.270(a). The issue remains, however, that the Copper River Basin is not an organized or unorganized borough unto itself. The Commission is concerned whether it is proper to compare Lake Louise's interrelationships between an organized borough and only a portion of the unorganized borough.

Regarding the ability of the MSB to meet the standards for incorporation contained in the Alaska Constitution, AS 29.05 and 19 AAC 10.045 - 19 AAC 10.060, the Commission found that detachment will have minimal effect.

The Commission found that the extent to which a transition plan of a previous annexation has been implemented and is effective is irrelevant in this instance.

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The Commission found that detachment would have adverse financial effects on the State and remnant MSB as identified earlier in the discussion of this standard. However, if Lake Louise remains in the MSB, it is reasonable to conclude that expectations and demands for services from the MSB by the residents of Lake Louise will increase.

With respect to the financial interests of the MSB, the Commission believes that it would be ideal to require, as a condition of any detachment, that the territory assume a proportional share of the MSB's bonded indebtedness. Further, the area should be required to reimburse the MSB for that portion of the required local contribution provision of the education foundation program (AS 14.17.025) which it must pay based on the full and true value of taxable property in the territory after detachment occurs. However, the Commission is concerned that State law provides no express authority for the MSB to collect taxes on detached territory.

The Commission found that detachment will not increase the number of local government units. However, detachment will eliminate local self-government for the residents of Lake Louise because it will place the territory in the governmental vacuum known as the unorganized borough.

The Commission found that certain of the territory's requirements for local government services will not be adequately met following detachment. Testimony indicated that the residents of Lake Louise will rely to a large extent on the Lake Louise Community Non-profit Corporation to provide services such as solid waste collection, management of the sewage disposal site and efforts to promote responsible development in the area. Regardless of how successful the nonprofit corporation is in these endeavors, it would not be able to carry out its functions with governmental authority. Detachment from an organized borough to the unorganized borough is an abdication of governmental authority. Further, there was evidence that roughly fifty percent of the property owners in the Lake Louise area are not members of the local nonprofit corporation.

The Commission concluded that the interests of the State, the MSB and the Lake Louise area are affected in favorable and unfavorable ways by the proposed detachment. The Commission concludes that the proposed detachment is not in the balanced best interests of the State, the territory to be detached and the political subdivisions affected by the detachment. The Commission concludes further that if the territory were being detached to an organized borough the unfavorable effects of the detachment would be diminished to the extent that detachment would serve the balanced best interests of the State, the territory to be detached, and the political subdivisions affected by the detachment. The Commission also concludes that if this territory is incorporated into a city government within the unorganized borough, it is possible that the balanced best interests could still be served if the city is structured in such a way as to take up a significant portion of the responsibilities of a borough for its own territory.

The Commission specifically notes that this area could qualify only as a second class city under Alaska Statutes, and it could not take on its own educational responsibilities. As a city in the unorganized borough, the education of the children of its residents would be the complete responsibility of the State, and no borough taxes could be levied on the area's properties to aid organized public education. For this reason, incorporation as a city is clearly a less desirable resolution of this dilemma than incorporation in a Copper River borough. Nevertheless, the Commission recognizes the great difficulties the residents of this territory face in attempting to organize a borough. Considering the particularly compelling facts in this case, the Commission concludes that the balanced best interests of the State, Matanuska-Susitna Borough, and territory to be detached could best be served by allowing the petitioners both options.

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Based upon the foregoing, the Local Boundary Commission determined that in a general sense that the proposal satisfies to a degree the principles set out in Article X, § 3 of Alaska's constitution. That is, the MSB would better satisfy the constitutional requirement that it embrace an area and population with common interests to the maximum degree possible, if the detachment of the inhabited and developed properties surrounding Lake Louise occurred. This area clearly has more in common with the Copper River Basin. On the other hand, the Copper River Basin is not an organized or unorganized borough unto itself. Therefore, satisfaction of the constitutional principle is limited in the sense that detachment would place Lake Louise in the huge residual unorganized borough. Lake Louise has little or nothing in common with many of the regions in the unorganized borough.

While the proposal furthers the extent to which Article X, § 3 is satisfied, it fails to fulfill the constitutional principle set out in Article X, § 1. Again, that provision calls for maximum local self-government. Without an organized borough or city government in place, detachment of Lake Louise would abolish rather than promote local self-government in the territory.

The proposal fails to maximize local self-government as required by Article X, § 1. This fault could be overcome, however, if the territory were included within another organized borough or a city government. The Commission's regulations expressly allow the Commission to condition the approval of a detachment upon voter approval of the incorporation of a new borough into which the territory will be placed [19 AAC 10.270(b)].

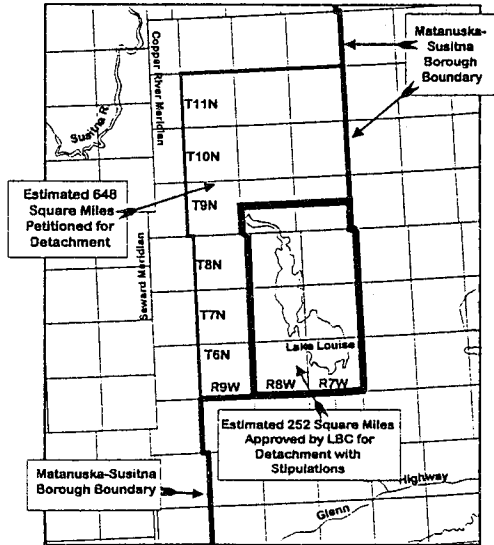
RECOMMENDATION

The Local Boundary Commission hereby recommends the detachment of the territory described below to the Second Session of the Nineteenth Alaska Legislature in accordance with the provisions of Article X, Section 12 of the Constitution of the State of Alaska. This recommendation is made subject to the stipulations noted below.

1. The area recommended for detachment encompasses an estimated 252 square miles, described as follows and shown on the map to the right:

T6N, R8W; T6N, R7W; T7N R8W; T7N R7W; T8N, R8W; T8N R7W; S 1/2 T9N, R8W; S 1/2 T9N; R7W; all in the Copper River Meridian.

2. Detachment of the area described above is approved with the stipulation that it will not take effect unless and until substantially the same territory approved for detachment becomes part of another organized borough or becomes incorporated as a second class city within two years of the date of tacit legislative approval of a recommendation for the detachment of Lake Louise. It is stipulated that the organized borough or second class city:



- a. pay \$160,000 to the Matanuska-Susitna Borough within two years of incorporation; said payment is to reasonably compensate the Matanuska-Susitna Borough for: (1) the estimated \$93,000 "local contribution" it is expected to be required to make under AS 14.17.025 based on the taxable value of property in the detached territory after detachment occurs — provided, however, that if the Matanuska-Susitna Borough is not legally required to make those "local contributions" (as a result of an amendment of the law; modification of the interpretation of the law by the Department of Education or some other basis), the amount to be paid to the Borough shall be reduced by \$46,500 for each year that such contribution is not required, and (2) a proportional share of the principal of the Matanuska-Susitna Borough's bonded indebtedness, less reasonably anticipated payments from the State for partial reimbursement of principal and interest payments on bonds for school improvements;

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- b. assume full responsibility for the Lake Louise sewage management site (ADL 224505; ASLS 92-162) in a manner that provides minimal or no interruption in service after detachment;
- c. assume responsibility for solid waste collection and disposal in a manner that provides minimal or no interruption in service after detachment;
- d. assume responsibility for platting, planning and land use regulation in a manner that provides minimal or no interruption in service after detachment;
- e. assume responsibility for emergency medical services in a manner that provides minimal or no interruption in service after detachment.

It is further stipulated in the event a city government is formed, that incorporation be conditioned upon the passage of a proposition authorizing the city to levy a property tax at a rate that will generate revenues (in combination with State aid to the city) sufficient to pay the \$160,000 noted above to the Matanuska-Susitna Borough within two years of incorporation and to carry out the duties listed above and other reasonably anticipated functions of the city.

3. That the Local Boundary Commission shall be the arbitrator of any dispute between the petitioners and the Matanuska-Susitna Borough concerning the payments required by this action or the implementation of any other aspect of the detachment and the conditions stipulated above.



Local Boundary Commission

Darroll Hargraves, Chairperson
Kathleen S. Wasserman, Vice-Chairperson, First Judicial District
Nancy E. Cannington, Member, Second Judicial District
H. Toni Salmeier, Member, Third Judicial District
William Walters, Member, Fourth Judicial District

RECOMMENDATION NUMBER TWO OF THE LOCAL BOUNDARY COMMISSION TO THE SECOND SESSION OF THE NINETEENTH ALASKA LEGISLATURE

A recommendation for annexation of 83.71 acres to the City of Wasilla

Introduction. On March 2, 1995, the City of Wasilla petitioned for annexation of 83.71 acres encompassing twelve parcels occupied by sixteen residents. The area proposed for annexation contains commercial, industrial and residential property. The assessed value of the area totals nearly \$4.3 million.

The areas proposed for annexation is either surrounded or adjoined by property already within the boundaries of the City.

A. PROCEEDINGS

Following a technical review of the petition, DCRA accepted the petition for filing on April 5, 1995. Public notice of filing of the petition was subsequently given by publication, posting and through the mail. A copy of the petition was served upon the Matanuska-Susitna Borough (MSB), the City of Palmer and the City of Houston. The petition was made available for public review at the Wasilla City Hall and the Wasilla Public Library.

The public notice invited responsive briefs and comments on the petition to be filed with DCRA by June 15, 1995. No responsive briefs were received in response to the proposal by the June 15 deadline. However, timely letters conveying comments regarding the annexation were received from five parties. The City responded to the comments with a letter on August 8, 1995.

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On September 29, 1995, DCRA issued a provisional report and invited public review and comment. The provisional report was distributed to 51 known interested parties. October 31, 1995 was set as the deadline for submission of comments on the provisional report. One party, Noel H. Kopperud, submitted comment on the provisional report.

On November 15, 1995, DCRA issued its final report and recommendation on the annexation proposal. The final report affirmed DCRA's draft recommendation that the Commission approve the petition, as submitted. The final report was mailed to 52 interested parties.

On December 8, the Commission conducted a public hearing from 1:00 p.m., to approximately 3:00 p.m., at the Wasilla City Hall. Testimony was received from eleven individuals.

Immediately following the hearing on December 8, the LBC acted on the petition. On December 15, 1995, the Commission met by teleconference to adopt its Statement of Decision.

On January 4, 1996, four property owners submitted a request for reconsideration of the Commission's December 15 decision. The Commission addressed the request for reconsideration at a meeting on January 12, 1996.

Based upon the record, the LBC reached the conclusions outlined below concerning the Wasilla annexation proposal. More detailed information concerning the conclusions of the LBC is provided in the LBC's 12-page decisional document relating to this matter. A copy of the decisional statement is available upon request. The following reflects the extent to which the Commission has determined that annexation standards are met in this instance.

Findings. The Commission is guided in this matter by standards set out in Title 19 of the Alaska Administrative Code. The following reflects the extent to which the Commission determined that annexation standards are met in this instance.

B. THE TERRITORY MUST EXHIBIT A REASONABLE NEED FOR CITY GOVERNMENT [19 AAC 10.090]

In deciding whether there is a reasonable need for city government in the area proposed for annexation, the Commission may consider any factor that it deems relevant and appropriate. 19 AAC 10.090 lists five factors which the Commission commonly considers. These relate to:

1. social or economic problems;
2. health, safety and general welfare problems;
3. economic development;
4. adequacy of existing services; and
5. extraterritorial powers of municipalities.

Three factors seem particularly relevant in this instance. Those are: existing or reasonably anticipated health, safety, and general welfare problems, adequacy of existing services, and the extraterritorial powers of the City of Wasilla.

Social or economic problems. No significant social or economic problem has been described as a factor relevant to the proposed annexation. The proposed boundary change relates more to the jurisdictional problems created by the City of Wasilla's current boundaries.

Health, safety and general welfare problems. More than half the area proposed for annexation consists of a portion of Wasilla Lake. The Matanuska-Susitna Borough has described public health and safety issues specific to water quality in Wasilla Lake.⁷

Wasilla Lake is fed by drainage from Cottonwood Lake and only has a small outlet through a swamp into a small pond and then into Cottonwood Creek. The Lake has experienced significant development pressures for both residential and recreational uses. Surface use of the lakes and the impacts to habitat and water quality from motorized recreational vehicles (jet skis, planes, boats) are of concern to core area residents. Surface use of lakes can introduce some pollution such as oil from boats and airplanes. Other surface uses [which] reduce the enjoyment of the lakes include noise and wakes generated by boats and airplanes. Wakes can also adversely affect bank stabilization and fish and wildlife habitat. As development pressures increase, adjacent land uses and the potential for increased pollution must be addressed by the City of Wasilla and the borough. [emphasis added]

The plan also describes some of the water and wastewater problems of the general area.

There are also public health and safety issues related to water quality. These are linked to quality of life issues for core area residents. High density residential development on individual soil absorption waste water treatment systems and high water use and discharge from commercial and industrial activities on relatively small lots using individual soil absorption waste water treatment systems may present public health and safety problems. Problems include the introduction of noxious substances such as human wastes and household gray water as well as petroleum products, nitrates, and phosphates into ground water and surface waters.

As development densities increase, the borough will need to address questions of water quality, especially ground water quality, and the provision of sewer service. These will need answering for the borough as a whole, not just the core area. For example, the capability of soil types to handle on site systems at an ever increasing density must be looked at on a watershed basis. The role of the borough as sewer service provider will also have to be described and agreed upon. Policy about how the borough determines who will get sewer and water service and how the systems will interface with the cities' systems will have to be discussed by the borough and city governments.

Annexation of the area would facilitate extension of water and wastewater services, which help preserve both surface and groundwater quality in the area. According to the petitioner, "Water and sewer lines currently extend past the properties fronting the Parks Highway making it simple for these properties to connect to the water and sewer. Hookup would only be required for new development, however, or when existing on-site systems fail. [Wasilla Municipal Code: 5.10.020 and .5.20.0020.]"⁸

Adequacy of existing services. The Commission's regulations provide that "territory may not be annexed to a city if essential city services can be provided more efficiently and more effectively by another existing city or by an organized borough." [19 AAC 10.090(b)]

No other existing city government seems to be in a position to serve the area proposed for annexation more efficiently and effectively than the City of Wasilla. The nearest adjacent city government is the City of Palmer. The City of Palmer is located approximately 13 miles east of Wasilla.

⁷ Matanuska Susitna Borough Core Area Comprehensive Plan, September, 1993, HDR Engineering, Inc., pg. II -57.

⁸ Petitioner's Transition Plan, Section 1.

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The Matanuska-Susitna Borough provides certain essential services to the residents of Wasilla. These include the functions mandated by State law consisting of education, and planning, platting & land use regulation. [AS 29.35.150 - 29.35.180] The Matanuska-Susitna Borough has delegated authority for comprehensive plan development for the area within the boundaries of the City of Wasilla to the City. [AS 29.40.010] However, the Borough fully exercises its planning powers and duties in the area outside of the City, including the area proposed for annexation. The Borough electorate has also approved areawide borough authority for recreation; emergency medical services; ports, harbors, wharves; public transportation systems; water pollution control; day care facility licensing; historic preservation and transient accommodations.

Non areawide borough powers exercised by the Borough include fireworks regulation; solid waste disposal; animal control and libraries.

The Borough exercises the following powers on a service area basis in the area:

- Emergency response (fire, emergency medical, search and rescue)
- Road maintenance (Bogard and Fairview Road Service Areas)

There is no indication that the Borough plans to provide new services to the area proposed for annexation. Even if it were willing to do so, it would face obstacles that would prevent it from providing the level of services currently provided by the City of Wasilla. Unless the Borough arranged to provide additional services on an areawide or nonareawide basis, it could do so only by creating new service areas encompassing the territory proposed for annexation. However, Alaska's Constitution and statutes prohibit the creation of any new service area as long as the desired service can be provided through annexation to an existing city. [Alaska Constitution Art. X, §6; AS 29.35.450(b)]

This strong preference for annexation over the formation of new service areas stems from Article X, § 1 of the Constitution. That provision states that the purpose of the local government section of the constitution is *"to provide for maximum local self-government with a minimum of local government units, and to prevent duplication of tax-levying jurisdictions"* (emphasis added). An authoritative study on the principles of local government in Alaska states that the purpose of the limitation on the creation of new service areas, *"was to avoid having 'a lot of separate little districts set up . . . handling only one problem . . .'; instead, services were to be provided wherever possible by other jurisdictions capable of doing so."* [Borough Government in Alaska, pages 41 - 43, Morehouse, Thomas A. and Fischer, Victor]

The local government services required by the area proposed for annexation appear to be similar to those needs existing within the existing boundaries of the City of Wasilla. The similar local government service needs would render annexation of the area to the City of Wasilla preferable to provision of such services by the Matanuska-Susitna Borough, whether on a service area, non-areawide or area-wide basis.

Extraterritorial powers of the City of Wasilla. The petitioner indicated that *"Occasionally WPD [Wasilla Police Department] has responded to calls in the proposed annexation areas because of a quicker response time than the Alaska State Trooper. The Palmer Dispatch Center will call on the Wasilla Police Department to respond outside the City if a trooper is not available in the reasonably immediate area."*⁹

⁹ Petitioner's brief, paragraph 1.

The City lacks full authority to provide police protection and other emergency response services to the area on an extraterritorial basis. Wasilla Police Chief Irl Stambaugh wrote "From a law enforcement perspective it does not make any sense for these areas to be outside the City of Wasilla when they are in fact in the middle of our service area. This has also become a confusing issue for the Wasilla and State Trooper dispatchers when they are trying to sort out and identify the different areas of coverage."

On August 18, 1995, Captain Robert Clontz of the Alaska State Troopers in Palmer indicated that to the extent that the proposed boundary change alleviates jurisdictional questions relating to provision of public safety to the area, it would be beneficial from a law enforcement perspective.

Findings and Conclusion. The City asserted that there is a demonstrated need for police services in the area. Given the developed nature of the area proposed for annexation, other City services, such as water and sewer, road improvement and fire hydrants, should prove beneficial to residents and property owners in the area.

From these circumstances, the Commission concluded that there is a reasonable need for city government in the area. There was no evidence that the Matanuska-Susitna Borough or any city government could provide needed services to the area more efficiently or effectively than the City of Wasilla. Thus, the Commission concluded that the standard set out in 19 AAC 10.090 was satisfied.

C. THE TERRITORY MUST BE COMPATIBLE IN CHARACTER WITH THE ANNEXING CITY (19 AAC 10.100)

The Commission may consider any factor that it deems relevant and appropriate in determining whether this standard is met. 19 AAC 10.100 lists five factors which the Commission commonly considers. These relate to:

1. land use and subdivision platting;
2. salability of land for residential, commercial or industrial purposes;
3. population density;
4. cause of recent population changes; and
5. suitability of the territory for community purposes.

Land use and subdivision platting. More than half (52.5%) of the area proposed for annexation consists of a portion of Wasilla Lake. A portion of the land within the area proposed for annexation is within the platted residential Lakeshore Subdivision. Other portions of the area are used for commercial purposes.

Salability of land for residential, commercial or industrial purposes. The twelve parcels encompassed by the area proposed for annexation are salable for both commercial and residential purposes. In its letter of August 8, 1995, the City suggested that annexation would enhance the salability of some of the waterfront lots. "*The availability of City water and sewer could allow a greater density of development on waterfront lots . . .*" According to the City of Wasilla, residential lots in Lakeshore Subdivision are substantially smaller than

the 40,000 square feet required by regulations of the Alaska Department of Environmental Conservation for onsite wastewater systems. The August 8 letter stated *"It seems likely that the requirements for wastewater disposal may be a limiting factor for development of these residential lakeside lots. Given the value of lake frontage lots it may be more cost effective in the long run to connect with City water and sewer in order to develop the lots more efficiently."*

Population density. The area's population density is relatively low, since much of the area is submerged by Wasilla Lake. The population density of the area within the existing boundaries of the City of Wasilla is approximately 409 residents per square mile. Residential population density within the area proposed for annexation is approximately 121 per square mile. That portion of the area proposed for annexation which is not submerged by Wasilla Lake has a residential population of approximately 243 per square mile. However, given the commercial nature of much of the area proposed for annexation, residential population does not provide a complete understanding of the extent to which the area is used and developed.

Cause of recent population changes. There has been no suggestion that the area proposed for annexation has experienced significant recent population changes.

Suitability of the territory for community purposes. Wasilla Lake is used for community purposes by Wasilla area residents. According to the City of Wasilla, *"Maintaining the high habitat value, recreational value and aesthetic value of Wasilla Lake is a high priority of the City of Wasilla."*

Findings and Conclusion. The area proposed for annexation is surrounded or adjoining the current city boundary. The existing development located in the territory proposed for annexation area is similar to development in adjacent areas located within existing City of Wasilla boundaries.

From these circumstance, the Commission concluded that, the territory proposed for annexation is compatible in character with the City of Wasilla. Thus, the standard set forth in 19 AAC 10.100 is satisfied for the area.

D. THE PROPOSED POST-ANNEXATION BOUNDARIES MUST INCLUDE THE RESOURCES NECESSARY TO PROVIDE ESSENTIAL CITY SERVICES ON AN EFFICIENT, COST-EFFECTIVE LEVEL. (19 AAC 10.110)

The Commission may consider any factor that it deems relevant and appropriate in determining whether this standard is met. 19 AAC 10.110 lists ten factors which the Commission commonly considers. These relate to:

1. functions the city may perform in the territory;
2. added expenses of the city;
3. current revenues of the city;
4. added revenues of the city;
5. economic base;
6. property values in the territory;
7. land use in the territory;
8. industrial, commercial and resource development;
9. personal income of residents; and
10. availability of employable skilled and unskilled people.

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Functions the city may perform in the territory. The City has provided police protection to the area. The petitioner's brief (Section III.B.1.) states that the City will begin providing road maintenance to that portion of the area not on State-maintained roads. The Matanuska-Susitna Borough will also continue to play a key role in delivery of services to the area.

Annexation will not affect education, tax assessment and collection, platting or education services currently provided to the area by the Matanuska-Susitna Borough. However, responsibility for comprehensive plan development has been delegated to the City of Wasilla by the Borough.

The Matanuska-Susitna Borough has retained platting powers and coastal zone management within the City of Wasilla, and would continue to exercise these powers in the area subsequent to annexation.

Added expenses of the city as a result of annexation. As noted, the City has indicated that it will provide road maintenance to the Westpoint Drive extended right of way *"when the road is brought up to City standards."* This right-of-way is 270 feet by 35 feet. The City has not provided estimates for additional projected expenses associated with extension of this service. Attempting to calculate precise costs associated with road service would be highly complex and speculative. This is partially a function of the proximity of the area to the City and the minimal stretch of road in the area which is not State-maintained.

Similarly, costs which the City would incur providing police protection to the area have not been calculated by the City. Attempts to address questions regarding specific costs of police service by the Wasilla Police Department are complicated by the fact that the City already provides limited police patrols through the area because of the current city boundary configuration.

It is evident that the City will have the financial capability to extend city services to the twelve lots proposed for annexation. Based on these projections, the increased revenues resulting from annexation will exceed the increased expenses resulting from annexation by \$80,570.57 annually. Those funds will be used to provide general fund support of City services and facilities, subject to annual appropriations by the Wasilla City Council.

The City indicated that it has no plans for the immediate extension of roads, sidewalks, water and sewer utilities or other capital improvements to the area proposed for annexation. The City expects to undertake such improvements only as requested by local property owners and as capital projects funding is made available by City Council appropriation. The City will use whatever means are available to it to arrange for such funding (e.g. 50% DEC grants for sewer extensions, legislative grants, sale of low interest municipal bonds, et cetera). Any local share or matching funds, however, will typically be paid by the establishment of a local improvement district.

The City committed to providing the annexed area with all of those services funded by City taxes at the time those taxes are levied. The City claimed that it anticipates no limitations in doing so. To the extent that unforeseen circumstances render this intent impractical, however, the City may institute a "differential tax zone" as authorized by AS 29.45.580, or local improvement districts.

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Current revenues of the city. For the fiscal year ending June 30, 1994, the City recorded total revenues of \$6,953,568. Of this, \$4,490,376 was general government revenue. The largest single source of locally generated revenue \$3,219,602 was generated by the City's 2% sales tax.

Added revenues of the city. Based on 1994 tax year information, the city property tax levy of 1.7 mills would generate \$7,274.13 of direct additional property tax revenue for the City of Wasilla.

The City projected that annual taxable sales in the area proposed annexation total about \$3,610,722. On this basis, the petitioner estimates that a 2% sales tax on this volume of taxable sales (\$500 maximum taxable per transaction) would generate \$72,214.44 in sales tax revenue to the City of Wasilla.

DCRA estimated that, based upon current funding levels, the City would gain \$580 in State Municipal Assistance program funding and \$502 in State Revenue Sharing funding.¹⁰

Thus, the City anticipates gaining the following revenues if the proposed annexation occurs.

Source	First Year Revenue
Sales Taxes	\$72,200
Property Taxes	7,274
Municipal Assistance	580
State Revenue Sharing	502

Economic base. The taxable value of real and personal property within the current boundaries of the City of Wasilla totaled \$269,881,500.¹¹ City officials have asserted that *"Wasilla's undisputed position as the retail and service center for the Valley will be favorably impacted by an increasing customer base attracted by the greater selection of goods, superior service and lower prices."*

Property values in the territory. The Matanuska-Susitna Borough assessed the twelve lots proposed for annexation at \$2,320,900 (real property only). The current value of personal property in the area is estimated to be \$1,958,000.

Land use in the territory. Land in the area is used for a variety of purposes, including residential, commercial and recreation. Approximately 44 acres of the area proposed for annexation is comprised of a portion of Wasilla Lake, which is heavily utilized by recreational watercraft operators.

Industrial, commercial and resource development. Development in the area includes retail, service and light industrial enterprises including Valley Yamaha, Aurora Properties, Papa Nick's Restaurant, Wasilla Concrete, Kenai Supply, Ti-Le-An Property Management, World System Watch & Clock and Books, Inc.

¹⁰ Estimate provided 6/22/95 by Bill Roltzen, State Revenue Sharing Program Coordinator

¹¹ *Alaska Taxable*, 1994, January, 1995.

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Personal income of residents. The 1990 federal decennial census recorded median household income in Wasilla at \$37,619, and adult unemployment at 11.1%.

WASILLA HOUSEHOLD INCOME BY TYPE OF INCOME, 1989¹²

<u>Income Type</u>	<u>% of Households</u>
<i>Households with:</i>	
Wage and salary income	82.4
Self-employment income	17.8
Social security income	13.6
Retirement income	15.4
Public assistance income	6.4

Availability of employable skilled and unskilled people. Approximately 30% of the Wasilla workforce commutes to Anchorage. More than 22% of the Wasilla workforce was employed by government in 1990.¹³ The City of Wasilla is currently operated by 46 full time employees.¹⁴

Findings and Conclusions. The City's estimated \$80,570.57 increase in annual revenues will enhance the ability of the City to provide essential city services on an efficient, cost-effective level. To a certain extent, the area is already enjoying at least limited police services from the City on an extraterritorial basis because of the configuration of the municipal boundary and the Parks Highway. Such an arrangement is neither efficient, in terms of jurisdictional problems created, nor cost-effective for the City of Wasilla. In such circumstances, reasonable boundary adjustments which would enhance the capacity of the City to generate local revenues is appropriate. This is particularly significant given continued reductions in State financial aid to cities and boroughs.

The proposed post-annexation City of Wasilla boundaries include the resources necessary to provide essential City of Wasilla services on an efficient, cost-effective level. Thus, the standard set out in 19 AAC 10.110 is satisfied.

¹² Matanuska Susitna Borough Core Area Comprehensive Plan, September, 1993, HDR Engineering, Inc.

¹³ DCRA Community Database.

¹⁴ City of Wasilla Fiscal Year 1995 Budget Message pg A-6.

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E. THE POPULATION WITHIN THE POST ANNEXATION BOUNDARIES MUST BE SUFFICIENTLY LARGE AND STABLE TO SUPPORT THE EXTENSION OF CITY GOVERNMENT (19 AAC 10.120)

The Commission may consider any factor that it deems relevant and appropriate in determining whether this standard is met. 19 AAC 10.120 lists five factors which the Commission commonly considers. These relate to:

1. total population;
2. duration of residency;
3. historical population patterns;
4. seasonal population changes; and
5. age distributions.

Total Population. The City's current population is 4,381.¹⁵

Duration of residency. The petitioner contended that annexation would not likely place demands on elected officials and staff of the City of Wasilla since the City presently serves the area.

Historical population patterns. The 1990 federal census counted 4,028 residents within the corporate boundaries of the City of Wasilla. That represented a 158% increase over the 1980 census population of 1,559 residents.¹⁶ In April, 1994, the City of Wasilla noted that Wasilla had seen "steady 6% population growth over the past two years" and projected that "Population growth estimates of 6% appear to be confirmed by school enrollments, telephone subscriptions and the 1993 Matanuska-Susitna Borough census."¹⁷

Seasonal population changes. Significant seasonal population changes are not evident in Wasilla. It exhibits the characteristics of a permanent residential community.

Age distributions. Of the 4,028 Wasilla residents recorded in the 1990 census, nearly 36% (1,454) were younger than eighteen years of age.

Findings and Conclusion. Wasilla's current population totals 4,381 residents, exceeding that of any other first class city in Alaska. Annexation of twelve parcels and 16 residents would promote slight improvements in efficiency of scale, particularly given the location of the area proposed for annexation relative to the current irregular municipal boundary configuration.

The standard set forth in 19 AAC 10.120 is satisfied. The population within the proposed post-annexation boundaries of the city would be sufficiently large and stable to support the extension of city government.

¹⁵ DCRA State Revenue Sharing Program.

¹⁶ Alaska Population Overview, 1991.

¹⁷ City of Wasilla Fiscal Year 1995 Budget Message pg A-1.

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F. THE PROPOSED POST-ANNEXATION BOUNDARIES MUST INCLUDE ALL AREAS NECESSARY TO PROVIDE FULL DEVELOPMENT OF ESSENTIAL CITY SERVICES ON AN EFFICIENT, COST EFFECTIVE LEVEL (19 AAC 10.130)

The Commission may consider any factor that it deems relevant and appropriate in determining whether this standard is met. 19 AAC 10.130 lists five factors which the Commission commonly considers. These relate to:

1. land use and ownership;
2. population density;
3. transportation patterns and facilities;
4. natural geographic features and environmental factors; and
5. extraterritorial powers of cities.

Except as noted below, the Commission found no evidence that the proposed post-annexation boundaries do not include all areas necessary to provide the full development of essential city services on an efficient, cost effective level.

19 AAC 10.130(c) provides that *"The proposed boundaries of the city must include only that area comprising an existing local community, plus reasonably predictable growth, development, and public safety needs during the 10 years following the effective date of annexation of that city."*

19 AAC 10.130(d) stipulates that *"The proposed boundaries of the city must not include entire geographical regions or large unpopulated areas, except when boundaries are justified by the application of the standards."*

If the proposed annexation occurs, the post-annexation boundaries of the City will encompass approximately 11.93 square miles.

Findings and Conclusion. A portion of the area proposed for annexation is a jurisdictional enclave, which is inherently inefficient. The area proposed for annexation closely resembles the adjacent areas within the boundaries of the City of Wasilla. Particularly relevant is 19 AAC 10.130(c), which specifically addresses consideration of public safety needs of the area. As noted previously, the current City of Wasilla boundary configuration in the area proposed for annexation is inefficient, in that it results in City police patrolling the area outside the municipal boundaries.

Annexation of the area would help perfect the boundaries of the City of Wasilla. The proposed boundary change promotes inclusion of areas necessary to provide the full development of essential city services on an efficient, cost effective level.

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F. WOULD THE PROPOSED ANNEXATION BE IN THE BALANCED BEST INTERESTS OF THE STATE, THE TERRITORY PROPOSED FOR ANNEXATION, THE CITY OF WASILLA AND THE MATANUSKA-SUSITNA BOROUGH? (19 AAC 10.140)

In rendering a best interests determination, the Commission may consider any relevant factor, including the following:

1. whether the territory is an enclave of the annexing city;
2. whether health, safety or general welfare of city residents is or will be endangered by conditions existing or potentially developing in the territory, and whether annexation will enable the city to regulate or control the detrimental effects of those conditions;
3. whether extension of city services or facilities into the territory is necessary to enable the city to provide adequate services to city residents, and whether it is impossible or impractical for the city to extend the facilities or services unless the territory is within the boundaries of the city;
4. whether residents or property owners within the territory receive, directly or indirectly, the benefit of city government without commensurate property tax contributions, whether these benefits are rendered or received inside or outside the territory, and no practical or equitable alternative method is available to offset the cost of providing these benefits;
5. whether annexation of the territory will enable the city to plan and control reasonably anticipated growth or development in the territory that otherwise may adversely impact the city; and
6. whether the territory is so sparsely inhabited, or so extensively inhabited by persons who are not landowners, that a local election would not adequately represent the interests of the majority of the landowners.

Enclave. Technically, only one of three segments of the area proposed for annexation is an enclave of the City. However, for purposes of service delivery, the other two areas exhibit some of the problems associated with jurisdictional enclaves. Annexation would help alleviate a boundary configuration which requires the Wasilla Police Department to exit and re-enter the Wasilla city limits when conducting patrols.

Health, safety or general welfare of city residents. The Commission considered health and safety issues relating to Wasilla Lake water quality and jurisdictional issues affecting Wasilla police services. Annexation is viewed by the Commission as a step to relieving concerns about such issues.

Impairment of ability to extend of City facilities and/or services. Problems with police services caused by the current City boundary configuration in the territory have been noted. The City's ability to extend water and sewer service to the area is also constrained by the City's current boundary configuration.

Benefit of city government enjoyed by the territory without commensurate property tax contributions. Owners and operators of businesses and others in the area proposed for annexation have stated that they receive little or no benefit from City of Wasilla services. Information provided by the City suggests otherwise. For example, Wasilla Police Department responses to the area have been documented.

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Wasilla is the major service center of the Matanuska-Susitna Borough. If the community of 4,831 residents did not exist, it is questionable whether the businesses located in the area proposed for annexation would chose to be situated in their present locations or whether residents would chose to reside in the territory proposed for annexation. Certainly one reason for the large population of Wasilla is the availability of City of Wasilla services.

The Matanuska-Susitna Borough's Wasilla/Lakes Fire Service Area would continue to serve the area proposed for annexation whether or not annexation occurs. However, fire insurance savings are already enjoyed by certain residents and property owners in the area proposed for annexation as a consequence of the proximity City of Wasilla's fire hydrants. On September 1, Allstate Agent Michelle Fritz (whose office is located near the area proposed for annexation) indicated that fire insurance rates for portions of the area proposed for annexation have been lowered because of the installation of City of Wasilla fire hydrants in the vicinity. At the December 8 public hearing, Wasilla City Planner Duane Dvorak stated that the City has installed fire hydrants within 500 feet of most, if not all, of the properties located in the area proposed for annexation. Matanuska-Susitna Borough Fire Chief Jack Krill has confirmed that property within the City of Wasilla enjoys a Class 4 Insurance Services Organization (ISO) rating and that property outside Wasilla municipal boundaries and outside the range of City fire hydrants has a less attractive ISO rating of 8.

Chief Krill indicated that the ISO rating applied to structures requiring a fire flow of under 3,500 gallons per minute. He indicated that this would exclude Valley Yamaha, which may require a higher level of fire flow. However, this structure has a fully operational sprinkler system which is supplied by water from Wasilla Lake. Such structures requiring a higher fire flow rate are rated independently for insurance purposes.

After reviewing the available data, it was evident to the Commission that the area's proximity of the City of Wasilla to the area does provide direct and indirect benefits to the residents and property owners in the territory proposed for annexation.

Effect of annexation on ability of City to plan and control reasonably anticipated growth or development in the territory that may adversely impact the City. Most of the area which is suitable for development has already been developed.

Would a local election fail to adequately represent the interests of the majority of the landowners? The territory is sparsely inhabited, compared with the population density within the boundaries of the City of Wasilla. It is not known how many of the sixteen residents of the City are registered to vote. Concerns relating to this standard were not raised as an issue by interested parties.

Findings and Conclusion. Owners of businesses in the area expressed concerns about the City sales tax and suggested that they do not need City services. Mr. Kopperud, a resident of the area, commented that previous efforts to extend the City of Wasilla's boundaries in this area have been halted in response to local opposition. While the Commission acknowledges such sentiments, it also recognizes that the City of Wasilla has changed and grown and the provision of police services by the City of Wasilla in recent years has altered the equation. Annexation of the area appears to be more appropriate now than it may have been as recently as five years ago. Residential property owners in the area should realize

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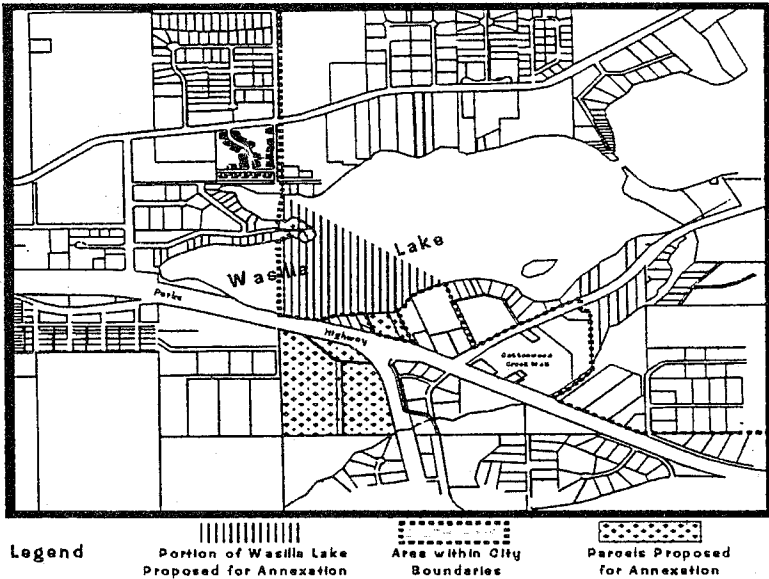
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benefits as a consequence of annexation, with a slight decrease in their tax burdens. Commercial enterprises in the area are naturally concerned about the City of Wasilla's sales tax, but on the whole, they should receive a reasonably commensurate level of City of Wasilla services subsequent to annexation.

The Commission finds that the proposed annexation is in the best interests of the State of Alaska, the City of Wasilla, the area proposed for annexation and will have an insignificant effect upon the Matanuska-Susitna Borough.

Recommendation

The Commission hereby recommends annexation to the City of Wasilla of the area described in the City of Wasilla's March 2, 1995 annexation petition. The recommended post-annexation boundaries of the City of Wasilla are described as follows:



Beginning at the SE corner of Lot 16, Block 4, of Happy Mountain Estates Subdivision, which is The True Point of Beginning of this description,
thence northerly to the SE corner of Lot 6, Block 5, Goddard Subdivision,
thence westerly to the SE corner of Lot 4, Block 1, Happy Mountain Estates,
thence northerly to the NE corner of Lot 4, Block 1, Happy Mountain Estates,
thence westerly to the NW corner of Lot 1, Block 1, Happy Mountain Estates,

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thence southerly to the SW corner of Lot 1, Block 4, Happy Mountain Estates Subdivision,
thence westerly to the north right-of-way line of George Parks Highway,
thence northwesterly along the north right-of-way line of George Parks Highway to the north high water line of record of Cottonwood Creek,
thence northeasterly along the high water line of record to the SE corner of Tract E, Cottonwood Creek Mall Subdivision,
thence northerly to the NE corner of Tract F, Cottonwood Creek Mall,
thence westerly and northerly along the NE boundary of Tract F, Cottonwood Creek Mall Subdivision,
thence northerly to the SW corner of Tract 7-1, Lake Subdivision, which point is on the north right-of-way line of the Palmer-Wasilla Highway,
thence southwesterly along the north right-of-way line of the Palmer-Wasilla Highway to the SE corner of Tract 1B, Olson Subdivision,
thence northwesterly to the NE corner of Tract 1C, of Olson Subdivision, which point is on the high water line of record of Wasilla Lake,
thence northwesterly across portion of Wasilla Lake to the SW corner of Lot 1, Block 5, Lakeshore Subdivision,
thence northerly along the east right-of-way line to a point on the section line common to Section 35, T18N, R1W, and Section 2 T17N, R1W, SM,
thence westerly to the north right-of-way line of Spruce Avenue,
thence westerly along the north right-of-way of Spruce Avenue to the NE corner of Lot 1, Aspen Heights Estates Subdivision,
thence westerly along the north boundary of Section 5, T17N, R1W, SM to the common section corner of Section 31 and 32, T18N, R1W, SM and Sections 5 and 6, T17N, R1W, SM,
thence southerly along the section line to the common section corner of Sections 5, 6, 7 and 8, T17N, R1W, SM,
thence westerly along the common section line of Section 6 and 7, T17N, R1W, SM to the SE corner of Phase I, Mission Hills Subdivision,
thence northerly to the SW corner of Phase III, Mission Hills Subdivision,
thence easterly to the SE corner of Phase III, Mission Hills Subdivision,
thence northerly to the NE corner of Phase III, Mission Hills Subdivision,
thence westerly to the NW corner of Tract C, Mission Hills Subdivision,
thence southerly to the SW corner of Phase II, Mission Hills Subdivision,
thence westerly to the SW corner of Wintergreen Acres Subdivision,
thence southerly to the NW 1/16 corner of Section 7, T17N, R1W, SM,
thence easterly to the CN 1/16 corner of Section 7, T17N, R1W, SM,
thence southerly to the C 1/4 corner of Section 7, T17N, R1W, SM,
thence westerly to the CE 1/16 corner of Section 12, T17N, R2W, SM,
thence southerly to Corner #19 New Wasilla Airport, Plat #92-6 Section 12, T17N, R2W, SM
thence following the perimeter of the New Wasilla Airport to Corner #4 Plat #92-6 Section 12, T17N, R2W and Section 7, T17N, R1W, SM
thence southerly along the north-south 1/4 line of Section 7 and 18, T17N, R1W, SM, to Mack Road right-of-way,
thence southerly along the west right-of-way line of Mack Road across Knik-Goose Bay Road to the south right-of-way line of Knik-Goose Bay Road,
thence easterly along the south right-of-way line of Knik-Goose Bay Road to the NW corner of Lot 1, Catherine Subdivision,
thence southeasterly to the SW corner of Lot 1, Catherine Subdivision,
thence easterly to the west right-of-way line of Fern Street,

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thence southerly along the west right-of-way of Fern Street to a point along the center line of Mint Drive,

thence easterly along the southern boundaries of Independence Estates Subdivision, Rosewood Subdivision and Bay View Gardens Subdivision to the east boundary of Togiak Avenue,

thence northerly along the east boundary of Togiak Avenue to the east-west 1/4 section line of Sections 14 and 17, T17N, R1W, SM,

thence easterly along the east-west 1/4 section line of Sections 14 and 13, T17N, R1W, SM, to the 1/4 corner of Section 13, T17N, R1W, and Section 18, T17N, R1E, SM,

thence northerly along the Seward Meridian to the south 1/16 corner of Section 12, T17N, R1W, SM and Section 7, T17N, R1E, SM,

thence westerly to the SE corner of Lot 16, Block 4, Happy Mountain Estates Subdivision, which is the True Point of Beginning of this description. Containing 7800 acres more or less.

