

State of AK

Local

Boundary

Commission

Report

14th Leg. 2nd S.

concern to the Commission, to municipalities proposing boundary changes and petitioners for municipal incorporation. The Federal Voting Rights Act requires that any change which affects or has the potential to affect voting rights must be precleared by the U.S. Department of Justice. The ramifications of this requirement, as it relates to matters concerning the Local Boundary Commission, are significant. Under provisions of the Act, any and all municipal incorporations, dissolutions, boundary changes, mergers and consolidations are subject to preclearance. Some of the matters requiring preclearance might not be immediately identifiable as affecting voting rights, such as the annexation of uninhabited territory contiguous to a municipality.

The Act provides that the Department of Justice has 60 days after receipt of a request for preclearance to object to the proposed change. Significantly, during the 60-day period, the change may not be enforced. It is also not uncommon for the Department of Justice to notify a submitting authority on or near the 60th day subsequent to receipt of a request for preclearance that additional information is required to enable the Department of Justice to make a final determination whether to grant preclearance. This is especially likely in the case of major changes such as controversial annexations or municipal incorporations. If the Department of Justice requests additional information, or if the petitioning municipality submits supplemental information, a new 60-day review period begins on the day the Department of Justice receives the information.

Adherence to the requirements of the Voting Rights Act can thus place extreme demands upon municipalities and others proposing virtually any action properly brought before the Commission. The Commission makes no specific recommendations to the Legislature in this regard, but has determined that the Legislature should be aware of the issue.

IV. RECOMMENDATION FOR THE ANNEXATION OF TERRITORY TO THE CITY OF ANGOON

IN THE MATTER OF THE PETITION)
FOR ANNEXATION BY THE CITY OF)
ANGOON, ALASKA, OF APPROXIMATELY)
87 SQUARE MILES, CONSISTING)
OF KOOTZNOOWOO INLET INCLUDING)
MITCHELL, FAVORITE AND)
KANALUKU BAYS, KILLISNOO ISLAND,)
A PORTION OF TABLE AND SAND)
ISLANDS AND HOOD BAY, INCLUDING)
NORTH ARM)

SUMMARY OF PROPOSED ACTION

On August 7, 1985, the City of Angoon submitted a petition for annexation of approximately 87 square miles, consisting of Kootznoowoo Inlet, including Mitchell, Favorite and Kanaluku Bays, Killisnoo Island, a portion of Table and Sand Islands and Hood Bay, including North Arm. The annexation was submitted pursuant to Section 29.68.010(a) of the Alaska Statutes (i.e. the process which requires concurrence from the State Legislature).

The Local Boundary Commission conducted a hearing on the petition in Angoon on November 22, 1985. Members of the Commission present at the hearing were Acting Chairman Charles Bettisworth, Dave Janson and Bert Greist.

Opposition to the proposed annexation was lodged by several property owners in the Hood Bay area. These individuals expressed a desire to remain in an unincorporated area and contended that they would accrue no measurable benefits as a result of the proposed annexation. They also stated that the City would not benefit by annexing the residents' property. Briefs opposed to the proposed annexation were also filed by the Alaska Pulp Corporation and Snee Atika, Inc.

The Commission conducted a decisional session on the petition in Anchorage on December 9, 1985. Present at the decisional session were Acting Chairman Charles Bettisworth, Dave Hanson, Jo Anderson and Bert Greist.

FINDINGS OF FACT

In arriving at its findings, documents and other evidence considered by the Commission included, but were not limited to, the petition and supporting briefs of the City of Angoon, briefs in opposition to the annexation filed by the Alaska Pulp Corporation and Snee Atika, Inc., the Report and Recommendation of the Department of Community and Regional Affairs and testimony provided at the Commission's November 22, 1985

hearing. Following its deliberations on this matter, the Local Boundary Commission made the following findings of fact:

1. The petitioner and residents of the community perceive a need to control land use and development of the area proposed for annexation in order to monitor and appropriately regulate growth, development and tourism activities in the area. Annexation of the amended area will afford the City an opportunity to more efficiently protect the area's significant economic resources, historical and cultural resources and the livelihood of its residents.
2. A demonstrated need exists for the extension of municipal services to those areas planned for development in the near future, particularly Killisnoo Island.
3. A road to Favorite Bay across village corporation lands is planned by the City to secure an additional water source. The road would open up the area for additional homesites, a new dump site and a cemetery. The petitioner has estimated that thirty additional homesites will be needed to accommodate increased resident population.
4. The City of Angoon provides search and rescue operations and related services in the area proposed for annexation. However, the City does not have the authority to provide such services extraterritorially. If this territory is annexed, it will allow the City to continue such activity without the present liabilities associated with the lack of municipal jurisdiction.
5. In its deliberations, the Commission noted that the area most likely to be impacted by development in the near future is Killisnoo Island. A subdivision containing approximately fifty 1-acre parcels exists on the eastern half of the Island. Another 190 acres is owned by the village corporation. The City is not presently providing services to this area, but is the logical entity to provide services as the area develops.
6. The 660 feet of land immediately above the mean high tide line in the Mitchell, Kanaku and Favorite Bay area is almost entirely owned by the Kootznoowoo Corporation. All development on these lands are subject to PL 96-487, Alaska National Interest Lands Conservation Act (ANILCA) Section 506.(a)(3)(C), which strictly limits development and activities on this land to ensure protection of subsistence resources and its uses.
7. The area of Hood Bay is also an economically important subsistence hunting and fishing area to the people of Angoon. The strong cultural links to the area were pointed out at the public hearing on the petition conducted by the Commission on November 22, 1985. Specifically, testimony

XIII. ISSUES TO BE BROUGHT TO THE ATTENTION OF THE LEGISLATURE

There are two issues which the Local Boundary Commission wishes to bring to the attention of the Legislature. The first relates to the desire of certain residents of the State to dissolve their municipal governments in favor of Native governments. The second issue concerns the impacts of the Federal Voting Rights Act upon the State and its political subdivisions on matters relating to Local Boundary Commission proceedings.

Dissolution of Municipal Governments

As was discussed in Section III of this Report, last year the Local Boundary Commission denied a petition of residents of the City of Akiacnak for the dissolution of their municipal government. It has been reported that residents of a number of other communities are also contemplating attempts to dissolve their municipal governments.

While the Commission denied the petition for dissolution of the City of Akiachak, it was sympathetic to the desire of the residents of Akiacnak for self-determination in that matter. It was amply demonstrated to the Commission that dissolution of the City of Akiacnak and the vesting of all local government powers in the Akiacnak IRA Council was strongly desired by many of the residents of the community.

The petition was denied simply because the present structure of State law concerning this matter would not permit the dissolution of the City under the current circumstances. The Commission suspects that residents of Akiacnak may now simply ignore their municipal government.

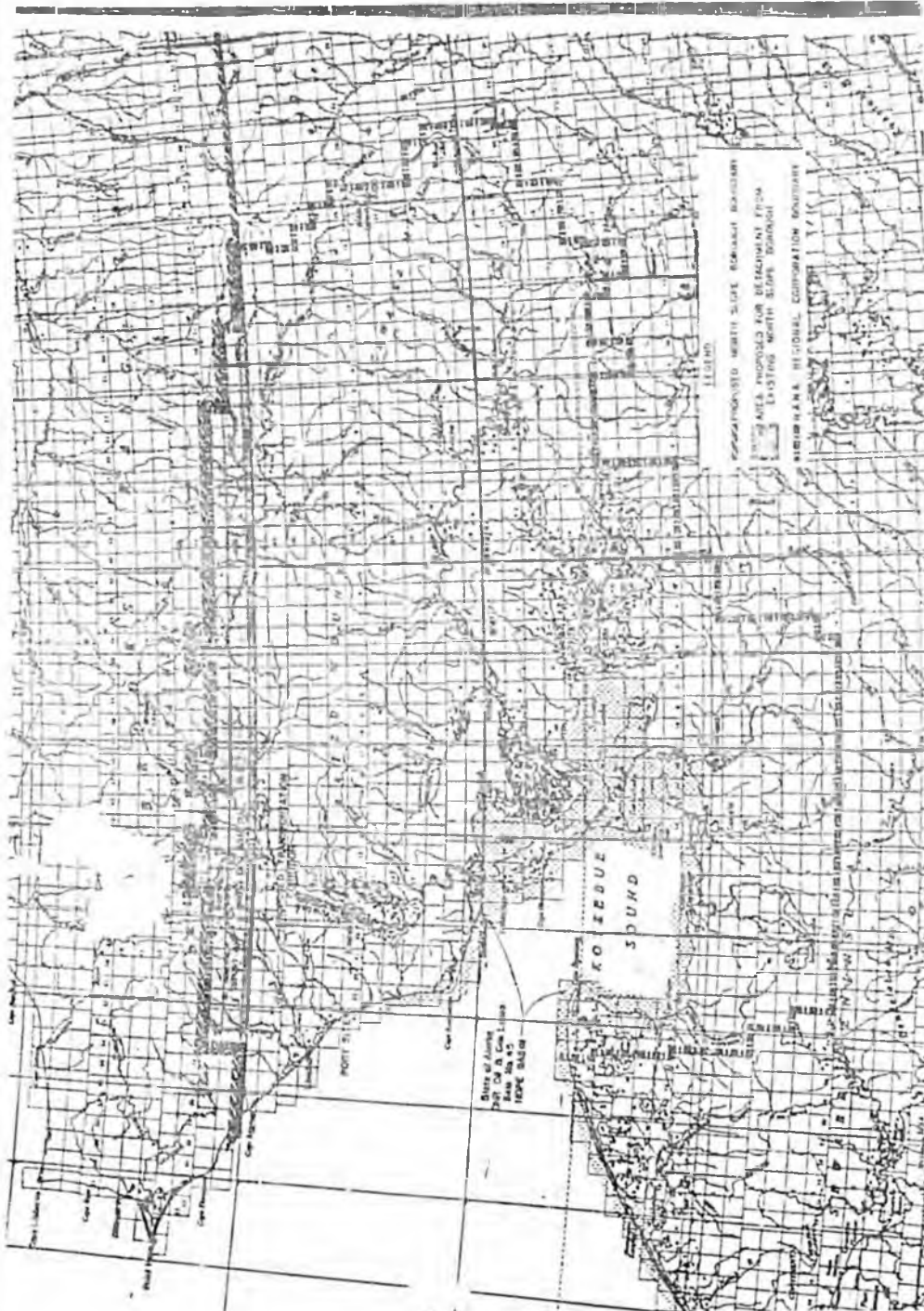
The Commission believes that this circumstance poses several significant public policy questions which encompass matters which are far beyond the responsibilities of the Local Boundary Commission. The Commission does not advocate any particular position in this matter, rather it believes that the matter should be considered carefully by the Governor and the Legislature.

Policy questions relating to this matter include the following:

- impacts of dissolution on both the State and the community;
- equitable delivery of public services to unincorporated communities;
- civil rights of citizens of Alaska;
- distribution of assets and liabilities of a municipal government in the event of dissolution; and
- standards and procedures for dissolution.

Federal Voting Rights Act

The impact of the Federal Voting Rights Act upon matters brought before the Local Boundary Commission is of particular



indicated that some 80% of the residents of the community grew up in Hood Bay and that the area is presently used extensively by community residents. The Council has also heard testimony that there is need for law enforcement services in the bay.

6. The petitioner indicated that residents of the community desire the City to regulate, to the extent possible, development and tourist activity on the Angoon Community Association (ACA) parcel in the Hood Bay Area and in the general vicinity of Hood Bay. Annexation of the territory would provide the City with the authority to do so.
9. Three land owners of the Hood Bay area opposed the annexation petition. The landowners submitted a letter to the Local Boundary Commission objecting to the annexation contending that it is nothing to be gained by the annexation, either by the City or their lives. There is one permanent resident living in this area.
10. The Nootnoowoo Corporation, the local village Native corporation, owns approximately 193 acres of Killisnoo Island and another 1,300 acres adjacent to the community. In addition, there are five Native Allotments within the territory proposed for annexation. The U.S. Forest Service Admiralty Monument is the largest land holder within the area proposed for annexation. The potential for many private land transfers and the prospect of upcoming ANCSA 14(c) land conveyances to residents and the City of Angoon have raised concerns regarding future development on important cultural and subsistence lands.
11. The population of a portion of the territory, specifically Killisnoo Island and Favorice Bay, may stem from growth of the City beyond its legal boundaries. Most of the territory proposed for annexation contains very steep slopes and is fairly remote. Growth is more likely to occur on Killisnoo Island. The growth may be attributed to a "spilling over" of present City population and the availability of City services such as sewer, water, police and fire protection.
12. Portions of the territory to be annexed may be valuable by reason of their suitability for prospective urban purposes. Specifically, Killisnoo Island may be suitable for additional residential development. The island is immediately adjacent to the present City limits, and is most likely to receive City services in the future.
13. There are no other municipalities in or near the territory proposed for annexation.
14. The City maintains that its volunteer fire department is in the position to provide service to the Killisnoo Island area. The City also states that it now currently serves

and would respond with City fire equipment wherever feasible to all lands proposed for annexation.

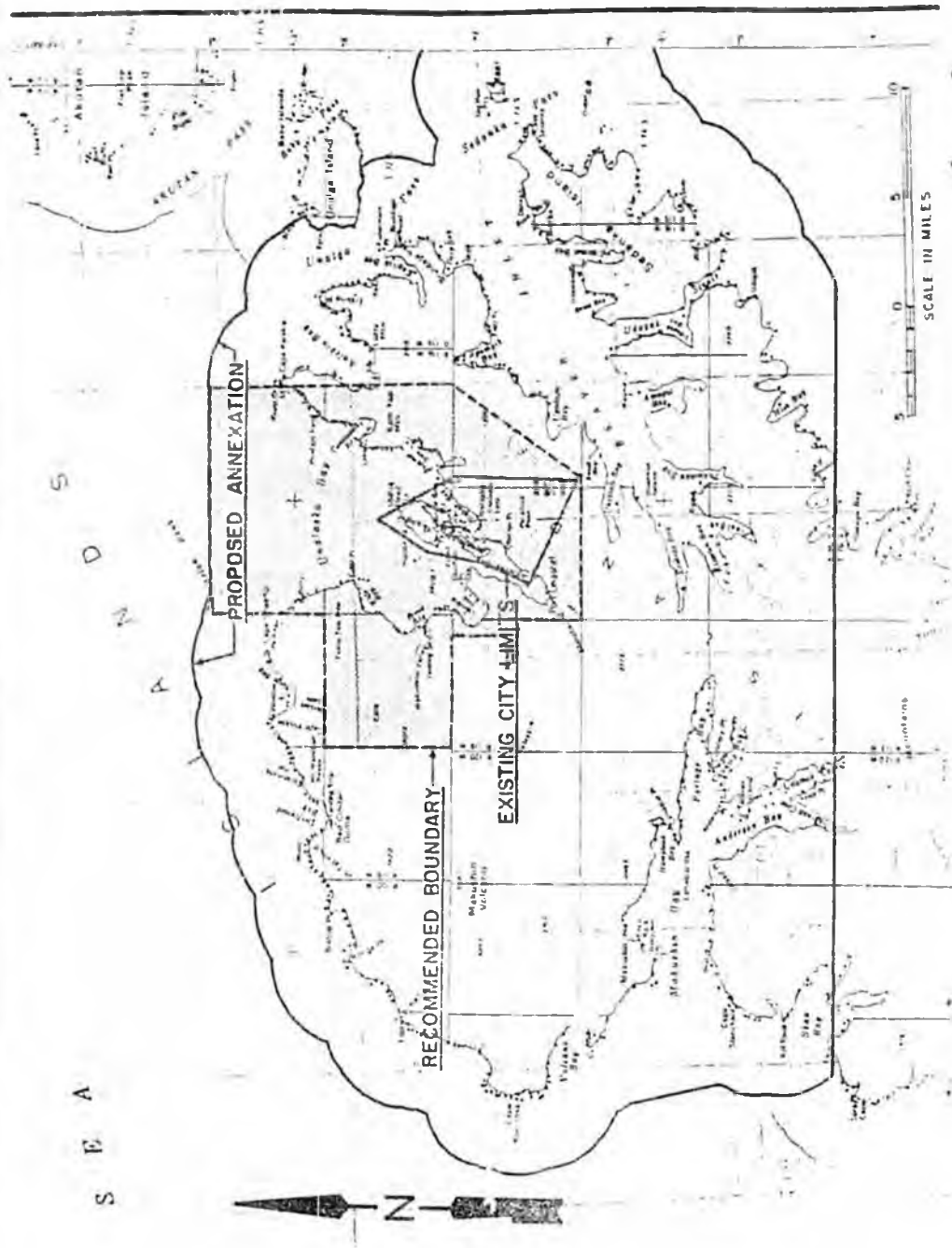
15. Fire service is provided by the Federal government for all Federal lands and for Kootznookoo corridor lands in Mitchell, Kanaku and Favorite Bays.
16. The City may be called upon to provide emergency services to Killisnoo Island, which is adjacent to the City and most likely to develop. The City may also be called upon to provide search and rescue and police protection to the Killisnoo Haroor area.
17. The potential for private or public development in the territory will determine the need by the City of Angoon to exercise municipal planning authority. The City has indicated in its petition that annexation of the territory will enable the City to plan for and control anticipated development. The petitioner lists anticipated development as a cold storage facility in Killisnoo Haroor, toilet facilities at the ferry terminal on Killisnoo Island, a road to Favorite Bay, a fish hatchery in Favorite Bay, non-site development on village corporation lands and the development of tourism and recreation in Hood Bay.
18. Local testimony at the Commission's public hearing on November 22, 1985 called for increased law enforcement service to Favorite and Hood Bays. Testimony was provided indicating that the City has the capability to provide such services to the areas.
19. Anticipated development pressures on Killisnoo Island may create a need for public services and facilities. Also, the proximity of this area to existing City services makes it most likely to develop in the near future. In addition, a road and hatchery may be developed in the Favorite Bay area.
20. Residents of Angoon testified at the November 22, 1985 hearing that they feel the protection of their subsistence resources, their livelihood and their way of life (which has been a major viable economy), and their cultural heritage are valid public purposes that would be protected through the annexation of this territory and subsequent land use controls that will lead to carefully planned and reasonably regulated development.
21. The Commission finds that the residential subdivision on Killisnoo Island and development of tourist interests, such as two lodges, may impact the cultural and subsistence resources of the entire Angoon community. The Commission concurs that a valid public purpose will be served by annexation of this area.

III. RECOMMENDATION FOR THE DETACHMENT OF TERRITORY FROM THE NORTH SLOPE BOROUGH

IN RE:)
THE DETACHMENT FROM THE NORTH)
SLOPE BOROUGH OF TERRITORY)
WITHIN AND ADJACENT TO THE)
NANA REGION)

Included in this Report and incorporated in this recommendation by reference is a copy of the Commission's formal Statement of Decision regarding the detachment of territory from the North Slope Borough, along with the Appendixes to that Statement of Decision which consist of a written summary of the Commission's evaluation of each of the 15 factors considered in this matter (labeled as "Appendix A") and a transcript of that portion of the Commission's decisional session when those factors were evaluated and the conclusions of the Commission were made (labeled as "Appendix B"). Because of the voluminous nature of this material it is included in the back of this Report as Section XIV, the Appendix.

The Local Boundary Commission hereby respectfully submits its recommendation to the Second Session of the Fourteenth Legislature for the detachment of the territory from the North Slope Borough which is described in the November 22, 1985 Petition of the Commissioner of the Department of Community and Regional Affairs and which is shown on the attached map.



22. Only a portion of the territory proposed for annexation is reasonably likely either to demand or to receive City services, particularly emergency medical and fire services and police protection, in the near future. This area is known as Killisnoo Island and Killisnoo Harbor, the private landholdings in the Hood Bay area and the Favorite Bay area.
23. There is a reasonable likelihood that future growth and development will occur in the vicinity of Angoon. However, the Commission anticipates that that development will be limited to Killisnoo Island, Killisnoo Harbor, Hood Bay, and Favorite Bay.

CONCLUSIONS OF LAW

Applying the standards for annexation, only a portion of the area proposed for annexation can be justified for inclusion within the boundaries of the City of Angoon. This territory includes that area generally described as Killisnoo Island, Killisnoo Harbor, Favorite Bay, Hood Bay and the lands south and west of the existing municipal boundaries of the City of Angoon. The area encompasses approximately 30.14 square miles.

STATEMENT OF DECISION

Based upon the Findings of Fact and Conclusions of Law stated above, IT IS ORDERED:

Upon tacit approval of the Second Session of the Fourteenth Legislature under the provisions of Article 4, Section 12 of the State Constitution, the municipal boundaries of the City of Angoon shall be as follows:

Beginning at the NW corner Section 2, T51S, R67E, Copper River Meridian (C.R.M.); thence S to the SW corner of Section 11, T51S, R67E, C.R.M.; thence E to the SE corner of Section 7, T51S, R68E, C.R.M.; thence S to the SW corner of Section 20, T51S, R68E, C.R.M.; thence E to the SE corner of Section 20, T51S, R68E, C.R.M.; thence S to the SW corner of Section 28, T51S, R68E, C.R.M.; thence E to the SE corner of Section 28, T51S, R68E, C.R.M.; thence S to the SW corner of the NW 1/4 of Section 10, T52S, R68E, C.R.M.; thence E to the center of Hood Bay; thence meandering in an easterly direction along the center of Hood Bay to the center of North Arm of Hood Bay; thence meandering in a northeasterly direction along the center of North Arm of Hood Bay to a point with its intersection with the east boundary of Section 5, T52S, R69E, C.R.M.; thence N to the NE corner of Section 1, T52S, R69E, C.R.M.; thence W to the NW corner of Section 2, T52S, R68E, C.R.M.; thence N to the NE corner of Section 22, T51S, R68E, C.R.M.; thence E to the SE corner of Section 13, T51S, R63E, C.R.M.; thence N to the NE corner of Section 12, T51S,

R68E, C.R.M.; thence W to the NW corner of Section 10, T51S, R58E, C.R.M.; thence N to the NE corner of Section 4, T51S, R68E, C.R.M.; thence W to the NW corner of Section 4, T51S, R68E, C.R.M.; thence N to the NE corner of Section 32, T50S, R68E, C.R.M.; thence W to the NW corner of Section 32, T50S, R68E, C.R.M.; thence N to the NE corner of Section 19, T50S, R68E, C.R.M.; thence W to the NW corner of the NE 1/4 of the NE 1/4 of Section 23, T50S, R67E, C.R.M.; thence S to the NW corner of the NE 1/4 of the NE 1/4 of Section 2, T51S, R67E, C.R.M.; thence W to the NW corner of Section 2, T51S, R67E, C.R.M.; the point of beginning.

The Local Boundary Commission hereby respectfully submits its recommendation to the Second Session of the Fourteenth Legislature for the annexation of the territory included in the above description and shown on the attached map.

west to a point 3 nautical miles north of the intersection of the west boundary of T71S, R117W, S.H.; thence south 3 nautical miles to the point of beginning.

Containing 115.84 Sq. miles of land, more or less, and 93.56 sq. miles of water, more or less for a total combined area of 214.4 sq. miles, more or less.

The Local Boundary Commission hereby respectfully submits its recommendation to the Second Session of the Fourteenth Legislature for the annexation of the territory included in the above description and shown on the attached map.

the Makushin Valley. Although these areas may be restricted to receiving emergency services for the near future due to the cost of providing such other services as water, sewer, and roads.

CONCLUSIONS OF LAW

1. That the standards established in State Statutes and Administration Regulations are met by part, but not all, of the territory requested in the original petition.
2. The territory immediately adjacent to the present boundaries of the City, the wetland around Mateekin Bay, Tabletop Mountain, a portion of the Makushin Valley and areas in and around Captains Bay and Unalaska Bay meet the standards for annexation to a sufficient degree to warrant inclusion within the boundaries of the City. This territory comprises approximately 189 square miles.

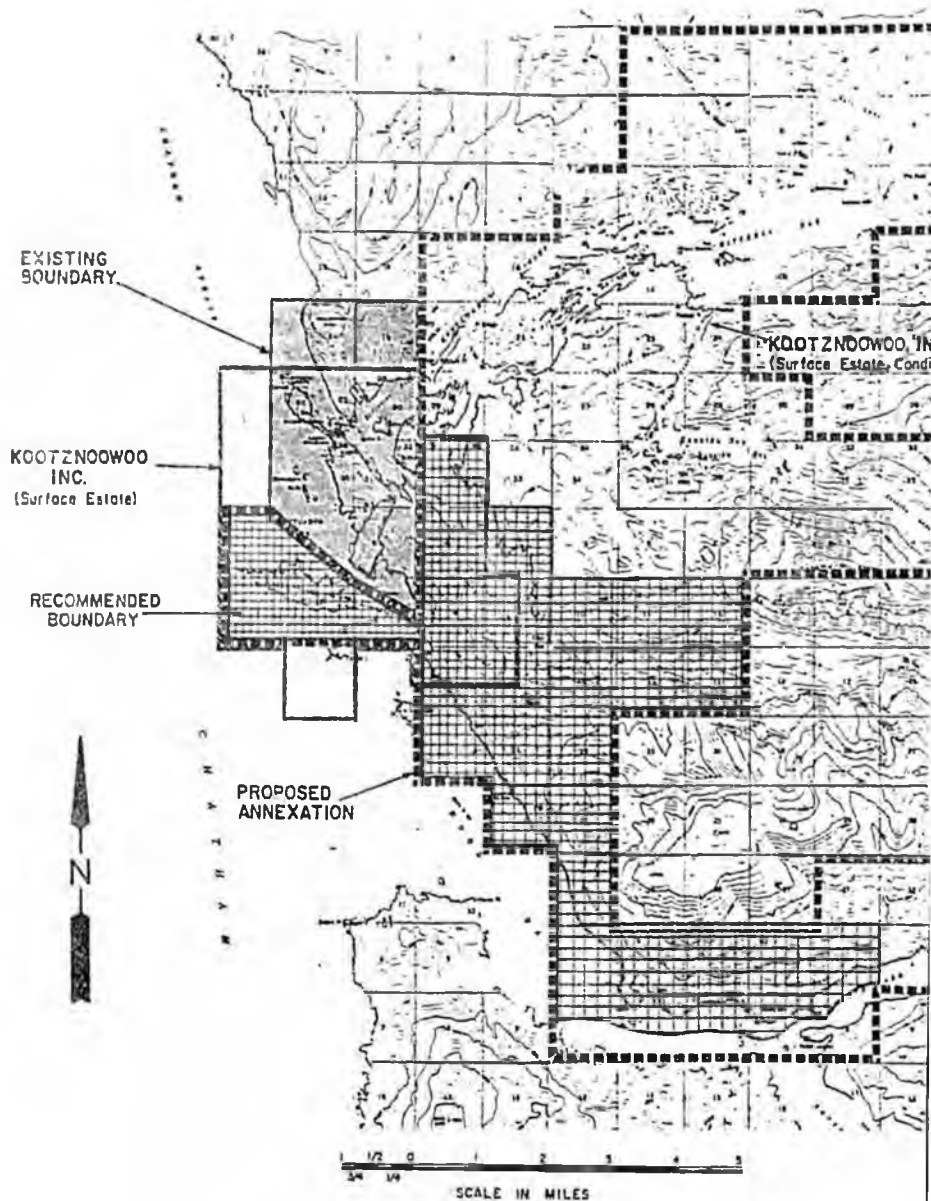
STATEMENT OF DECISION

Based upon the findings of fact and conclusions of law stated above, IT IS ORDERED:

The annexation of approximately 189 square miles of territory to the City of Unalaska, as described in the amended petition of the City of Unalaska, is hereby approved by the Local Boundary Commission. However, in recognition of the historical and current use of the territory proposed for annexation for subsistence hunting purposes, the Commission recommends or suggests that the City of Unalaska not extend the prohibition on the use of firearms to this area.

That upon tacit approval of the Second Session of the Fourteenth Legislature, in accordance with the provisions of Article X, Section 12 of the State Constitution, the municipal boundaries of the City of Unalaska shall be as follows:

Beginning at the intersection of the west boundary of T71S, R117W, Seward Meridian (S.M.) and the mean high tide line of the Bering Sea; thence south to the protracted NE corner of T72S, R118W, S.M.; thence west to the NW corner of T72S, R118W, S.M.; thence south to the SW corner of T72S, R118W, S.M.; thence east to the NW corner of Section 1, T73S, R119W, S.M.; thence south to the SW corner of Section 13, T73S, R119W, S.M.; thence east to the SE corner of Section 13, T73S, R119W, S.M.; thence south to the SW corner of T73S, R119W, S.M.; thence east to the SE corner of the W1/2 of Section 31, T73S, R117W, S.M.; thence in a northeasterly direction to the SE corner of the W1/2 of Section 35, T72S, R116W, S.M.; thence north to the intersection of the east border of the W1/2 of Section 23, T71S, R116W, S.M.; thence continuing north a distance of 3 nautical miles; thence



V. RECOMMENDATION FOR THE ANNEXATION OF THE BLM-KPU
ADDITIONS TO THE CITY OF KETCHIKAN

IN THE MATTER OF THE PETITION)
FOR ANNEXATION BY THE CITY OF)
KETCHIKAN, ALASKA OF)
APPROXIMATELY 515.62 ACRES,)
DESCRIBED AS THE BLM-KPU ADDITIONS)

SUMMARY OF PROPOSED ACTION

On June 26, 1985, the City of Ketchikan petitioned for the annexation of approximately 515.62 acres contiguous to the City and described as the BLM-KPU Additions. On November 24, 1985, the Local Boundary Commission held a public hearing in Ketchikan on the petition. The petition was submitted pursuant to Section 29.68.010(a) of the Alaska Statutes (i.e. the process which requires concurrence from the Legislature).

The majority of area proposed for annexation to the City of Ketchikan is owned by the United States Bureau of Land Management and the City of Ketchikan Public Utilities. Annexation will permit the City to provide needed urban services in an area where growth is anticipated and the City is the only logical entity to provide such services. The territory is readily accessible only via territory within the jurisdiction of the City of Ketchikan.

The territory is not urban in character. It is largely undeveloped open space, with the exception of a sanitary landfill and improvements related to the Ketchikan municipal water supply.

The territory will most probably be in need of municipal services as the community confronts growth caused by the development and operation of the U.S. Borax mine. The petitioner maintains that the City can provide services to the site more efficiently than any other municipality.

The petitioner asserts that there is a reasonable likelihood that the territory will become further developed in the foreseeable future. This assertion is based upon the City's contention that the area contains the surveyed right-of-way of a proposed bypass route linking the eastern and western portions of the City of Ketchikan; it contains lands identified for disposal and residential development and it has been identified as a probable location for future development related to operation of the U.S. Borax molybdenum mine. The petitioner maintains that it is prudent for the City to prepare for possible settlement and urban use of the territory.

The Ketchikan Gateway Borough has expressed no objection to the proposed annexation.

there exists no need or demand for municipal services, except for the possibility of extending planning authority.

12. The petitioner has made no claim that the welfare or safety of residents of Unalaska is endangered by any current or prospective condition in the territory proposed for annexation. However, at the Commission's hearing on January 4, 1986, residents did testify to the need for control of dumping of bilge water and garbage in the bays in proximity to the City. It is reasonable to conclude the City will need to impose some degree of control over this activity in those bays just outside its jurisdiction, such as Captains Bay and Unalaska Bay.

13. The petitioner claims that the potential for the development of geothermal energy resources exists twelve miles west of Unalaska at the base of Mt. Makushin. Available evidence indicates that this resource holds potential for development into a feasible utility that could meet a substantial portion of the community's power requirements. However, a formal feasibility study of the potential development has not yet been completed. Development of this resource would require the creation of a transmission corridor between the source and the community. It is likely that the City will play a role in the development of these energy resources, perhaps in the form of a utility enterprise. However, it would not be necessary for the area containing the geothermal resources to be annexed in order for the City to participate in such development of the resources.

Testimony received by the Commission at its January 4, 1986 hearing indicated that the geothermal project will not be operable for some time. Therefore, if the territory in the vicinity of the Makushin Volcano is not annexed at this time, the City of Unalaska retains the option of developing another petition to annex the Makushin Volcano area at a later date.

14. The petitioner has acknowledged that it does not routinely provide services, other than search and rescue and emergency medical response, on an extraterritorial basis. Considering that only four individuals reside within the vast territory proposed for annexation, it is not reasonable to conclude that these four individuals expect to receive City services. Further, it is questionable whether the City will be able to provide services to the four residents in the territory. Even though all cities generally have the function of providing an array of public services and facilities to the resident population of that City, there is a "threshold population" or minimum population size necessary to provide the demand that justifies that function. It is more likely that the City will provide services to areas just outside the present City limits such as Captains Bay, Broad Bay, Wide Bay, and

6. City services, other than those emergency services referenced previously, are not presently provided in the territory proposed for annexation, nor is there any indication that such services are either needed or desired by individuals residing within the territory. The Unalaska Corporation also expressed concern regarding the need for extension of planning and zoning authority over such a remote territory.
7. Evidence indicates that it is reasonable to expect the City may be called upon to provide emergency services such as fire, ambulance and police to both oil rigs and floating seafood processors moored in the bays and narrows located in the immediate vicinity of the City yet outside the present municipal boundaries.
8. Floating processors are transient but locate primarily in Unalaska Bay, Iliuliuk Bay, and Captains Bay. The Commission found persuasive the petitioner's argument that the City of Unalaska should be empowered to exercise control over these bays since the processors impact water quality, require City services and use City facilities. Offshore floating processors are likely to impact the community by bringing in a transient labor force which places demands on both emergency medical and local law enforcement services.
9. The present land status of the territory proposed to be annexed may inhibit it from being developed immediately. Again, much of the land is owned by the Native Corporation. The corporations have, for the most part, received interim conveyance to their land selections. The Unalaska Corporation has indicated that it has no immediate plans to open up land for development. Lands owned by the Unalaska Corporation that are in the immediate vicinity of the existing City, however, would more likely be developed before the more remote areas if the Corporation elects to develop its land. It is unlikely that these more remote areas will be requiring or demanding City services in the near future.
10. The Commission finds that annexing the land area adjacent to Beaver Inlet and Makushin Bay merely to control processors in these waters is not justified under the guise of "planning authority" alone. The Alaska Coastal Management Program (ACMP) provides the City with an alternative means for planning and regulating land use within the territory proposed for annexation. Under the ACMP, districts are authorized to develop a coastal management program for their area of jurisdiction. Districts include first-class cities such as the City of Unalaska and also Coastal Resource Service Areas.
11. The Commission finds it is inappropriate for a municipal government to annex vast amounts of territory in which

FINDINGS OF FACT

In arriving at its findings, documents and evidence considered by the Commission included, but were not limited to, the petition of the City of Ketchikan, the Report and Recommendation of the Department of Community and Regional Affairs and oral testimony provided at the November 24, 1985 hearing. After due consideration, the Commission finds that the area proposed for annexation conforms to several of the regulatory standards governing annexation. The extent to which these standards are met is stated below.

1. The territory will be in need of municipal services if a planned local land disposal and consequent residential development occurs. The City of Ketchikan can provide necessary services to the site more efficiently than any other municipality.
2. The health, welfare or safety of City residents could potentially be endangered if the watershed located within the area proposed for annexation were substantially disturbed. The referenced territory is in close proximity to residential areas, and this access poses increased potential for fire hazards in the watershed and for vandalism to water service facilities. It is prudent for the City of Ketchikan to extend police and fire protection services to the territory.
3. There is a reasonable likelihood that future growth and development will occur within the territory and that annexation of the territory will enable the City to prudently plan for and control that development pursuant to [19 A.C. 10.070(5)].

CONCLUSIONS OF LAW

The annexation of territory known as the BLM-KPU Addition to the City of Ketchikan, as described in the petition of the City of Ketchikan, sufficiently meets standards for annexation to warrant inclusion within the boundaries of the City of Ketchikan.

STATEMENT OF DECISION

Based upon the Findings of Fact and Conclusions of Law stated above, IT IS ORDERED:

Upon tacit approval by the Second Session of the Fourteenth Legislature in accordance with the provisions of Article X Section 12 of the State Constitution, the territory described below shall be annexed to the City of Ketchikan:

A parcel of land located in the Ketchikan Recording District (K.R.D.), First Judicial District, State of Alaska, more particularly bounded and described as follows:

Beginning at the northernmost corner of Lot 2, Block 4, U.S.M.S. 769, a brass cap monument as shown on plat 73-3, K.R.D.; thence northwesterly along the northern boundary of the Utica Lode Claim to the NW corner of said claim as shown on the plat of the claim of James A. Davis, Mineral Survey 769, recorded May 7, 1904, Juneau Land District; thence southwesterly to the NE corner of the Columbia Lode Claim; thence northwesterly to the NW corner of the Columbia Lode Claim, this point being in common with the western boundary of U.S.M.S. 769; thence northeasterly along said boundary to the NW corner of U.S.M.S. 769, this point being in common with the NW corner of the Cosmos Lode Claim; thence southeasterly along the north boundary of U.S.M.S. 769 to its point of intersection with the western boundary of the E 1/2 of the NW 1/4 of protracted section 19, T75S, R91E, Copper River Meridian (CRM); thence north to the NW corner of the E 1/2 of the NW 1/4 of protracted section 19, T75S, R91E, C.R.M.; thence east to the NE corner of the W 1/2 of the NE 1/4 of protracted section 19, T75S, R91E, C.P.M.; thence south to the northern boundary line of U.S.M.S. 769; thence southeasterly along said boundary line to its intersection with the north boundary of the NE 1/4 of the SE 1/4 of protracted section 19, T75S, R91E, C.R.M.; thence east to the NE corner of the SW 1/4 of protracted section 20 T75S, R91E, C.R.M.; thence south to the northern boundary of U.S.M.S. 769; thence southeasterly along said boundary to the NE corner of U.S.M.S. 769, this corner being in common with the NE corner of the Sterling Lode Claim; thence southwesterly along the eastern boundary of U.S.M.S. 769 to its point of intersection with the east boundary of U.S.S. 2635; thence north to corner 5 of U.S.S. 2635 as shown on plat 77-43, K.R.D.; thence west to corner 4 of U.S.S. 2635; thence north to corner 3 of U.S.S. 2635; thence west to corner 2 of U.S.S. 2635; thence north to corner 1 of U.S.S. 2635; thence northeasterly to corner 4 of U.S.S. 2435 according to the official government plat thereof; thence north along the centerline of the Ketchikan Creek to corner 3 of U.S.S. 2435; thence southwesterly to corner 2 of U.S.S. 2435; thence southwesterly to the NE corner of Washington Lode Claim; thence northeasterly along the northern boundary of the Washington, Tuscarora, and Utica Claims to the point of beginning.

The Local Boundary Commission hereby respectfully submits its recommendation to the Second Session of the Fourteenth Legislature for the annexation of the territory included in the above description and shown on the attached map.

not in need of municipal services and that the present municipal boundaries of the City of Unalaska contain areas which are suitable for development but not yet developed.

FINDINGS OF FACT

1. Most of the territory proposed for annexation is not platted or held for sale for residential or commercial purposes. The territory proposed for annexation is vast and remote and is largely undeveloped.
2. The population density of the territory proposed for annexation does not approximate that of the territory within the present boundaries of the City of Unalaska. The City's petition indicates that four individuals reside within the 1,294 square miles proposed for annexation. The population density of the territory proposed for annexation is 0.0031 people per square mile. By comparison, 1,922 individuals reside within the present boundaries of the City of Unalaska (which encompass approximately 25.4 square miles). The population density within the City is 75.7 persons per square mile.
3. The population of the territory proposed for annexation does not stem primarily from actual growth of the City beyond its legal boundaries. This is due, in part, to the difficulty in developing the lands outside the major river valleys and relatively accessible bay areas. In addition, a significant portion of the territory proposed for annexation is held by the village Native corporation and is not platted and available for purchase.
4. Portions of the territory proposed for annexation may be valuable by reason of their suitability for prospective urban purposes. Specifically, the land areas around Broad Bay, Wide Bay, Mateekin Bay, the Makushin Valley, and Summers Bay may be suitable for additional rural/low density residential development. In addition, Captains Bay presently harbors processors and oil rigs. It is likely that this activity will continue and even increase in the future.
5. The petitioner has acknowledged that the City of Unalaska does not routinely provide services outside its corporate limits. However, in 1984 the City emergency medical services staff responded to 56 marine calls. According to the City of Unalaska, the majority of these calls were to vessels moored in nearby bays that are outside the City limits. The City normally responds to marine calls by transporting rescue and emergency medical equipment to the harbor tug so City personnel can undertake rescue and emergency fire operations. Much of the demand on the City ambulance and fire services is from offshore seafood processors frequently anchored in Captains Bay and parts of Unalaska Bay.

XI. RECOMMENDATION FOR THE ANNEXATION OF TERRITORY TO THE CITY OF UNALASKA

IN THE MATTER OF THE PETITION)
FOR ANNEXATION BY THE CITY OF)
UNALASKA, ALASKA OF)
APPROXIMATELY 1,294 SQUARE MILES,)
CONSISTING OF A PORTION OF)
UNALASKA ISLAND, AMAKNAK ISLAND,)
EGG ISLAND, HOG ISLAND,)
SEDANKA ISLAND AND THE TERRITORY)
THREE NAUTICAL MILES SEAWARD OF)
THESE ISLANDS)

SUMMARY OF PROPOSED ACTION

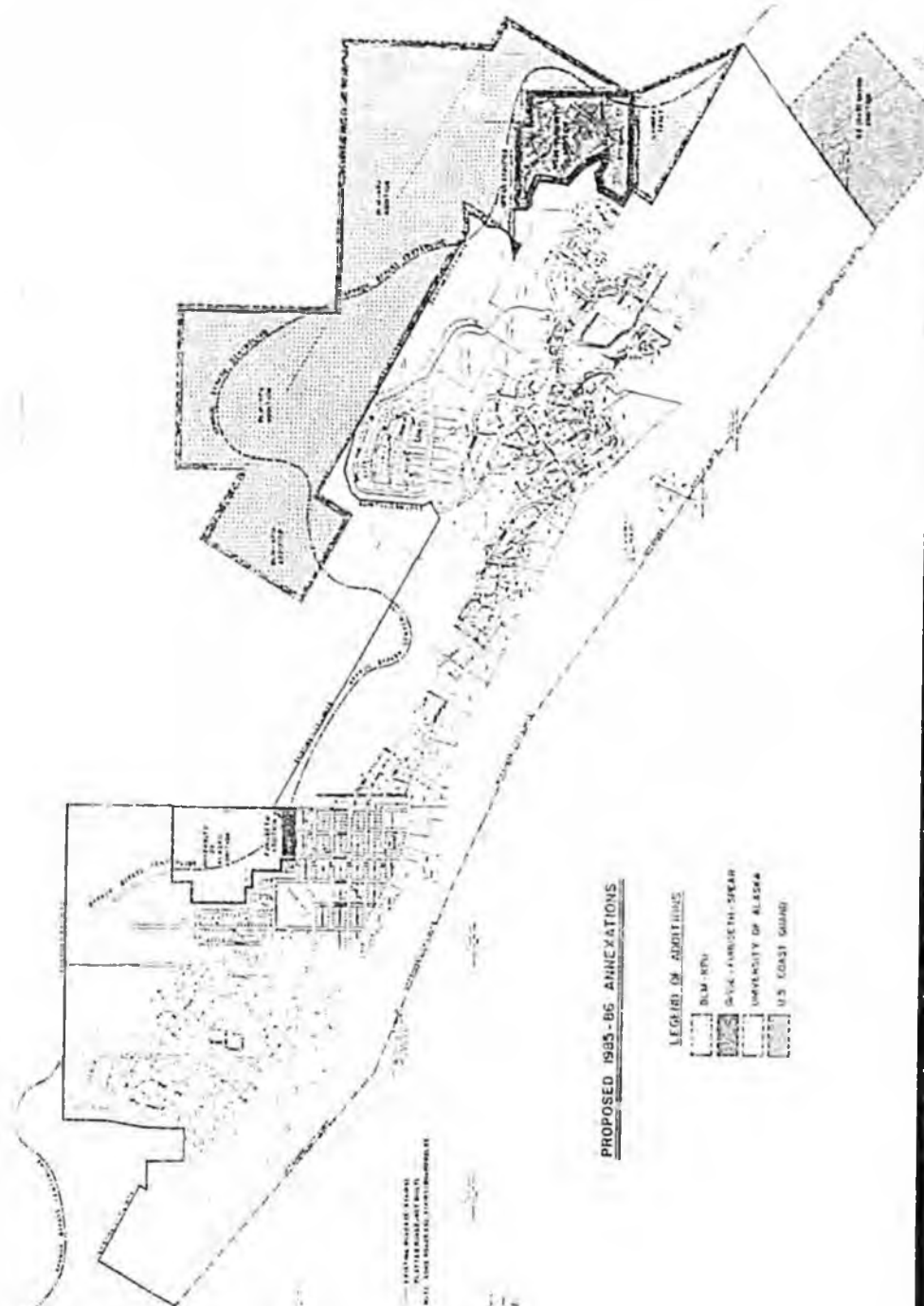
On August 21, 1985, the City of Unalaska petitioned for the annexation of approximately 1,294 square miles of territory contiguous to the City and described as Unalaska Island north of Township 76 and the islands of Sedanka, Hog, Egg and Amaknak, including the territory three nautical miles seaward from these islands. On January 4, 1986, the Local Boundary Commission conducted a public hearing in Unalaska on the petition. The petition was submitted pursuant to Section 29.68.010(a) of the Alaska Statutes (i.e. the process which requires concurrence from the Legislature).

The majority of the area proposed for annexation (approximately 60 per cent) is land, the remainder is water. The petitioner asserts that annexation will permit the City to provide needed urban services in an area where growth is anticipated and the City is the only logical entity to provide such services.

The territory is not urban in character. It is largely undeveloped and uninhabited open space and water, with a only four residents, according to the petitioner.

The petitioner asserts that there is a reasonable likelihood that portions of the territory will become further developed in the foreseeable future. This assertion is based upon the City's belief that there is a demand for vacant, developable land to meet the needs of the oil and bottomfish industries. The petitioner also referenced the interest of private sector developers in the commercial geothermal potential of the Makushin Volcano area, which is located in the area proposed for annexation.

During the course of its proceedings, the Commission considered testimony, both written and oral, including that provided by the Unalaska Corporation. The Unalaska Corporation, which is a primary land holder in the area proposed for annexation, contended that much of the territory proposed for annexation is



VI. RECOMMENDATION FOR THE ANNEXATION OF THE
GISSE-FURUSETH-SPEAR ADDITIONS TO THE CITY OF
KETCHIKAN

IN THE MATTER OF THE PETITION)
FOR ANNEXATION BY THE CITY OF)
KETCHIKAN, ALASKA OF)
APPROXIMATELY 58.609 ACRES)
CONSISTING OF THREE SEPARATE)
PARCELS, COLLECTIVELY DESCRIBED)
AS THE GISSE-FURUSETH-SPEAR)
ADDITIONS)

SUMMARY OF PROPOSED ACTION

On June 26, 1985, the City of Ketchikan petitioned for the annexation of three separate areas totalling approximately 58.609 acres of land contiguous to the City. The referenced petition was submitted pursuant to Section 39.48.01(a) of the Alaska Statutes (i.e. the process which requires Legislative concurrence).

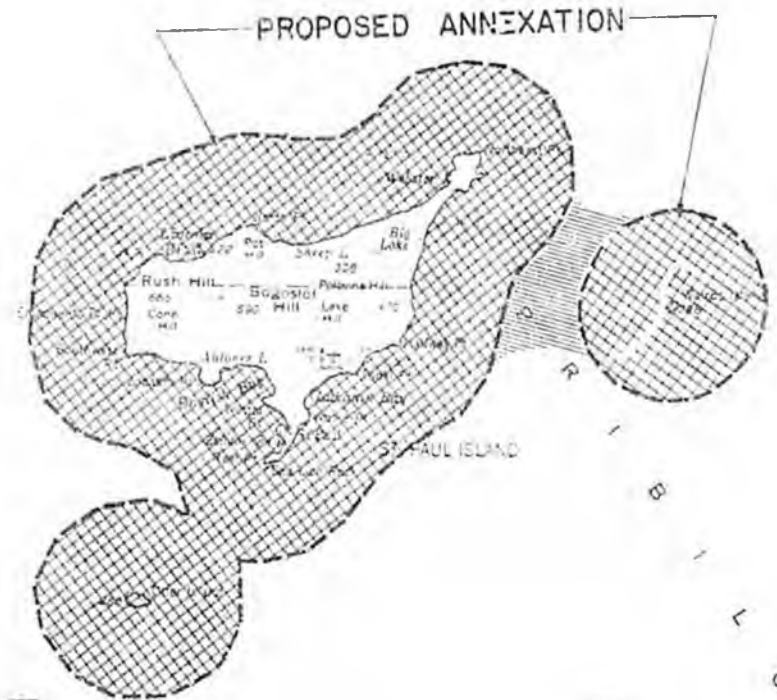
The territory proposed for annexation consists of the three parcels identified and described as follows and collectively described as the Gisse-Furusetn-Spear Additions:

1. the Furusetn Addition is in the northwest portion of the City adjacent to the University Addition and consists of 2.879 acres;
2. the Spear Addition, in the southeast part of the City, is virtually surrounded by property already within the boundaries of the City and consists of 0.47 acres; and
3. the Gisse-Furusetn Addition, an approved subdivision plat located near the Spear Addition, consists of 55.26 acres.

The Furusetn Addition is undeveloped and unpopulated. The Spear Addition is essentially one lot with a single-family dwelling, and it is almost entirely surrounded by territory within the City limits. The Gisse-Furusetn Addition is a 54 lot undeveloped subdivision, platted in the 1970's. The Gisse-Furusetn Addition is accessible by the Ketchikan Lakes Road, which also provides access to the sanitary landfill.

The petitioner states that its motive for proposing the annexation is to prepare for anticipated community growth and to resolve questions over service delivery.

The Gisse-Furusetn Addition is accessible, platted land which will be suitable for development as the demand for housing increases in the Ketchikan vicinity. The Furusetn Addition is undeveloped land which would be wholly surrounded by the City,



B E R I N G

become even more important with the expansion of outside fishing vessels using the St. Paul harbor as a base of operations.

10. The City will likely require additional revenue to provide basic services in the maritime territory proposed for annexation. If this territory is annexed, the City can collect a share of the raw fish tax revenues currently collected by the State for operations within the territory proposed for annexation.

CONCLUSIONS OF LAW

The annexation of territory described as the three mile nautical perimeter surrounding St. Paul Island, Walrus Island and Otter Island including Walrus Island and Otter Island to the City of St. Paul, as proposed in the petition of the City of St. Paul, sufficiently meets standards for annexation to warrant inclusion within the boundaries of the City of St. Paul.

STATEMENT OF DECISION

Based upon the Findings of Fact and Conclusions of Law stated above, IT IS ORDERED:

Upon tacit approval by the Second Session of the Fourteenth Legislature under the provisions of Article X Section 12 of the State Constitution, the jurisdictional boundaries of the City of St. Paul shall be as follows:

All of the territory contained within a three nautical (geographical) mile perimeter and lying above the mean low water line surrounding St. Paul Island, Sea Lion Rock, Walrus Island and Otter Island of the Pribilof Group at Latitude 57° 10' N and Longitude 170° 15' W.

The Local Boundary Commission hereby respectfully submits its recommendation to the Second Session of the Fourteenth Legislature for the annexation of the territory included in the above description and shown on the attached map.

if property owned by the University of Alaska is annexed by the City. The annexation of the University of Alaska's property has been requested by University officials, and a petition for annexation of the property has been approved by the Commission for submission to the Second Session of the Fourteenth Legislature. The Furusetn Addition is adjacent to City streets and residential development. Like the Gisse-Furusetn Addition, the Furusetn Addition will be suitable for development as the demand for housing increases in the Ketchikan vicinity. The Furusetn Addition is an undeveloped, unpopulated parcel surrounded on three sides by the proposed University Addition annexation, and on the fourth side by the territory within the boundaries of the City of Ketchikan. It is conveniently accessible only from territory within the municipal boundaries of the City of Ketchikan.

The Spear Addition consists of a 1/2 acre lot containing a single-family dwelling. The Spear Addition is, for all practical purposes, totally surrounded by territory already within the City. The Spear family receives City water and sewer service, access to its property over City streets, and benefits from City fire and police protection due to the proximity of its property to the existing boundaries of the City of Ketchikan.

FINDINGS OF FACT

In arriving at its findings, documents and evidence considered by the Commission included, but were not limited to, the petition of the City of Ketchikan, the Report and Recommendation of the Department of Community and Regional Affairs, the opposing brief from Edward King on behalf of the Furusetn Estate, and oral testimony provided at the November 24, 1985 hearing. After due consideration, the Commission finds that all three areas proposed for annexation conform to several of the regulatory standards governing annexation. The extent to which these standards are met is stated below.

1. Two of the three areas are urban in character pursuant to [19 AAC 10.070(a)(3)]. The Gisse-Furusetn Addition is judged to be urban in character principally because of its status as an approved subdivision plat and its potential for residential development. The Spear addition is urban in character because it is presently used for urban residential purposes.
2. All three areas are in need of municipal services which the City can provide more efficiently than another municipality [19 AAC 10.070(a)(4)]. These services include municipal sewer and water utilities, fire protection and police protection. Of the three areas, only the Spear Addition requires all of these services; the Gisse-Furusetn Addition requires only fire and police protection at this time.

3. The Furusetn Addition will be attractive for residential development as the demand for housing increases in the Ketchikan vicinity. There is a reasonable likelihood that future growth and development will occur within the territory and that annexation of the territory will enable the City to plan for and control that development [19 AAC 10.070(a)(5)].
4. Residents or property owners within the territory receive or may be reasonably expected to receive, directly or indirectly, the benefit of city government without commensurate property tax contributions [19 AAC 10.070(a)(8)]. This is particularly evident with respect to the Spear addition, the residents of which receive an entire range of basic city services without a concomitant tax contribution.
5. Further, the Commission considered the request by a representative of the Furusetn estate to reject the petition or to omit parcels owned in whole and in part by the Furusetn Estate. The Commission determined that this request should not be granted since the property in question met the above-referenced standards for annexation.

CONCLUSIONS OF LAW

The annexation of territory known as the Gisse-Furusetn-Spear Addition to the City of Ketchikan, as described in the petition of the City of Ketchikan, sufficiently meets standards for the annexation of territory to warrant inclusion within the boundaries of the City of Ketchikan.

STATEMENT OF DECISION

Based upon the Findings of Fact and Conclusions of Law stated above, IT IS ORDERED:

Upon tacit approval by the Second Session of the Fourteenth Legislature in accordance with the provisions of Article X Section 12 of the State Constitution, the territory described below shall be annexed to the City of Ketchikan:

Gisse-Furusetn Addition

That portion of U.S. Survey 2635, Ketchikan Recording District, First Judicial District, State of Alaska, more particularly bounded and described as follows:

Beginning at corner 7 of U.S. Survey 2635 as shown on recorded plat 477-43, said corner being a B.L.M. monument, and being in common with the eastern most corner of U.S. Survey 1381, this point being the point of beginning:

thence N-59°41'00"-W a distance of 275.88 feet;
thence N-31°01'00"-E a distance of 438.88 feet;

4. With respect to the capabilities of other municipalities to provide these needed services, the Commission noted that the only other municipality in the area is the City of St. George, which is located approximately 40 miles southeast of St. Paul. This situation is particularly relevant with respect to 19 AAC 10.070(a)(4).
5. Potential development in the territory proposed for annexation warrants the provision of municipal planning authority in the territory. Sufficient evidence exists that there will likely be continued development of both the fisheries industry and offshore oil industry within and adjacent to the area proposed for annexation. Currently, the bottom fishing industry is rapidly expanding in the Pribilof area.
6. In addition to the development of the onshore fish processing industry, there also exists the potential for increased offshore processing. It is reasonable to conclude that the City will both desire and require control over waters contiguous to the existing municipal boundaries since processors impact water quality and utilize certain City services and facilities. Offshore floating processors will likely impact the community by bringing in large numbers of transient workers who, in turn, place a demand on both emergency medical and local law enforcement services.
7. The City of St. Paul is currently a Coastal District established under the Alaska Coastal Management Program (ACMP). Under the ACMP, districts are authorized to develop a coastal management program for their area of jurisdiction. In the case of St. Paul, expansion of its municipal boundaries seaward three nautical (geographical) miles will extend the City's planning jurisdiction over that territory. Presently, the City only has jurisdiction for coastal management to the shoreline.
8. A portion of the territory proposed for annexation is now part of the Alaska Maritime National Wildlife Refuge and is protected by the Federal government. However, an extension of the City's municipal boundaries to include this area would allow the City to provide coastal management planning to regulate impacts upon the coastal resources contiguous to the Refuge. The Refuge is identified by the Alaska Department of Fish and Game as part of the same coastal biophysical area as St. Paul Island proper.
9. As previously stated, the residents of St. Paul use the waters surrounding the Island for day fisheries operations and subsistence activities. Because there are no U.S. Coast Guard rescue facilities on or near St. Paul Island, the City provides marine rescue services. If the City is to legally provide such services, the marine territory must be within its municipal boundaries. The service will

of the proposed annexation. After reviewing the testimony, briefs and other material, the Commission conducted a decisional session on the proposed annexation in Anchorage on December 9, 1985.

FINDINGS OF FACT

In arriving at its findings, documents and evidence considered by the Commission included, but were not limited to, the petition and supporting briefs of the City of St. Paul, the Report and Recommendation of the Department of Community and Regional Affairs, the opposing briefs from the Aleut Community of St. Paul and the Tanadusix Corporation, oral testimony provided at the November 24, 1985 hearing and information provided by Community and Regional Affairs staff after conducting an informational meeting in St. Paul on December 2, 1985. After due consideration, the Commission finds that all three areas proposed for annexation conform to several of the regulatory standards governing annexation. Following its deliberations on this matter, the Local Boundary Commission made the following findings of fact:

1. The City of St. Paul is now working toward diversifying the community's economy by reducing its dependence upon the seal harvesting industry and broadening the economic base of the community. To accomplish this, the City is developing a port facility to promote local development of the bottom fishing industry. St. Paul residents are investing in small boats and fishing off the coast of St. Paul Island. In addition, numerous other fishing boats and floating processors are operating immediately off the coast of St. Paul Island in the area proposed for annexation.
2. The City of St. Paul provides search and rescue operations and related services to the waters contiguous to its current municipal boundaries. However, the City does not have the authority to provide such services extraterritorially. If this territory is annexed, it will allow the City to continue such activity without the present liabilities associated with the lack of municipal jurisdiction. Testimony provided by the petitioner indicated that the City of St. Paul is involved in an average of at least two search and rescue missions per month. Thus the health, welfare or safety of City residents is endangered in the absence of such municipal jurisdiction.
3. The City of St. Paul also provides potable water to the floating processors and fishing boats operating offshore of the Island. As the fishing industry grows in the region, the City of St. Paul will be an increasingly important municipal service. To accommodate anticipated impacts, the City is currently preparing to develop alternative potable water sources.

thence N-64°52'00"-E a distance of 60.26 feet;
 thence N-85°16'00"-E a distance of 31.61 feet;
 thence N-70°22'00"-E a distance of 34.19 feet;
 thence N-83°56'00"-E a distance of 78.15 feet;
 thence S-38°42'00"-E a distance of 74.86 feet;
 thence S-59°18'00"-E a distance of 57.46 feet;
 thence S-73°59'00"-E a distance of 129.34 feet;
 thence N-29°21'17"-W a distance of 309.00 feet;
 thence N-47°23'23"-W a distance of 355.00 feet;
 thence N-6°40'44"-E a distance of 352.94 feet;
 thence North a distance of 37.00 feet;
 thence N-66°29'31"-W a distance of 239.64 feet;
 thence West a distance of 126.00 feet;
 thence N-39°10'00"-W a distance of 115.01 feet;
 thence North a distance of 178.24 feet;
 thence East a distance of 1311.97 feet;
 thence South a distance of 147.18 feet;
 thence East a distance of 460.35 feet;
 thence South a distance of 1623.60 feet;
 thence West a distance of 1483.68 feet to the point of beginning.

The hereinabove described parcel of land contains 55.26 acres, more or less.

Spear Addition

That parcel of land known as Tract A, U.S. Survey 2635, Ketchikan Recording District, First Judicial District, State of Alaska, more particularly bounded and described as follows:

Beginning at corner 1 of U.S.S. 2635 according to the official government plat thereof;

thence S-21°47'-W a distance of 34.65 feet;
 thence East a distance of 116.94 feet;
 thence S-23°00'00" -W a distance of 140.89 feet;
 thence N-59°34' -W a distance of 255.40 feet;
 thence N-79°-15'-E a distance of 174.24 feet to the point of beginning.

The hereinabove described parcel of land contains 0.47 acres, more or less.

Furusetn Addition

The parcel of land known as Tract E, U.S. Survey 1229, as shown on recorded plat #34-6, Ketchikan Recording District, First Judicial District, State of Alaska, more particularly bounded and described as follows:

Beginning at the southeastern most corner of Tract E, said corner being in common with the northeastern most corner of Lot 12A, Block 6, U.S. Survey 1229, this being the point of beginning;

thence N-89°48' -W a distance of 299.83 feet;
 thence North a distance of 15 feet;
 thence N-89°48' -W a distance of 175.27 feet;
 thence along a curve concave to the South, (Radius=430
 feet) an arc distance of 23.24 feet;
 thence along a curve concave to the North (Radius=30
 feet) an arc distance of 77.38 feet;
 thence N-89°48' -W a distance of 100.42 feet;
 thence North a distance of 200.00 feet;
 thence S-89°48' -E a distance of 650.00 feet;
 thence South a distance of 200.00 feet to the point of
 beginning.

The hereinabove described parcel of land contains 2,879 acres,
 more or less.

The Local Boundary Commission hereby respectfully submits its
 recommendation to the Second Session of the Fourteenth
 Legislature for the annexation of the territory included in the
 above description and shown on the attached map.

X. RECOMMENDATION FOR THE ANNEXATION OF TERRITORY TO THE
 CITY OF ST. PAUL

(IN THE MATTER OF THE PETITION)
 FOR ANNEXATION BY THE CITY OF)
 ST. PAUL, ALASKA OF APPROXIMATELY)
 194 SQUARE MILES CONSISTING OF)
 OTTER ISLAND, WALRUS ISLAND AND)
 THE TERRITORY THREE NAUTICAL)
 MILES SEAWARD FROM THESE ISLANDS)

SUMMARY OF PROPOSED ACTION

On July 11, 1985, the City of St. Paul petitioned the State of
 Alaska for the annexation of Otter Island, Walrus Island and
 the territory three nautical (geographical) miles seaward from
 these islands. The total area of the territory proposed for
 annexation is approximately 194 square miles, consisting of 193
 square miles of water and 1 square mile of land. The
 annexation was submitted pursuant to Section 29.68.010(a) of
 the Alaska Statutes (i.e. the process which requires
 concurrence from the State Legislature).

On November 7, 1985, the Commission held a public hearing on
 the petition in St. Paul. Chairman Robert Eder and
 Commissioners Greist, Hanson and Bettisworth participated in
 the hearing. Testimony was offered by eleven individuals.

The petitioner indicated that the proposed annexation is based
 upon the following assertions:

That a need exists to enhance the City's tax base by expanding
 its municipal boundaries seaward so that raw fish tax revenue
 paid to the State by floating fish processors operating
 immediately offshore of St. Paul Island may be shared with the
 City. That a need exists to control the impact upon the
 Community of development by the fishing and oil exploration
 enterprises on Walrus and Otter Islands and to control land use
 and development through planning in a larger area.

During the hearing, the Commission received testimony that the
 Aleut Community of St. Paul Island (IRA) and the Tanadusix
 Corporation, the major land holder in the area, oppose the
 proposed annexation.

The Commission considered briefs opposing the proposed
 annexation prepared on behalf of the Aleut Community of St.
 Paul Island and a response to the opposition brief filed by the
 City of St. Paul. In arriving at its decision, the Commission
 also considered the Report and Recommendation of the Department
 of Community and Regional Affairs on the proposed annexation,
 and an opinion of the Department of Law regarding the
 determination of the contiguity of Walrus Island in the context

*Property Annexation
to City of North Pole*

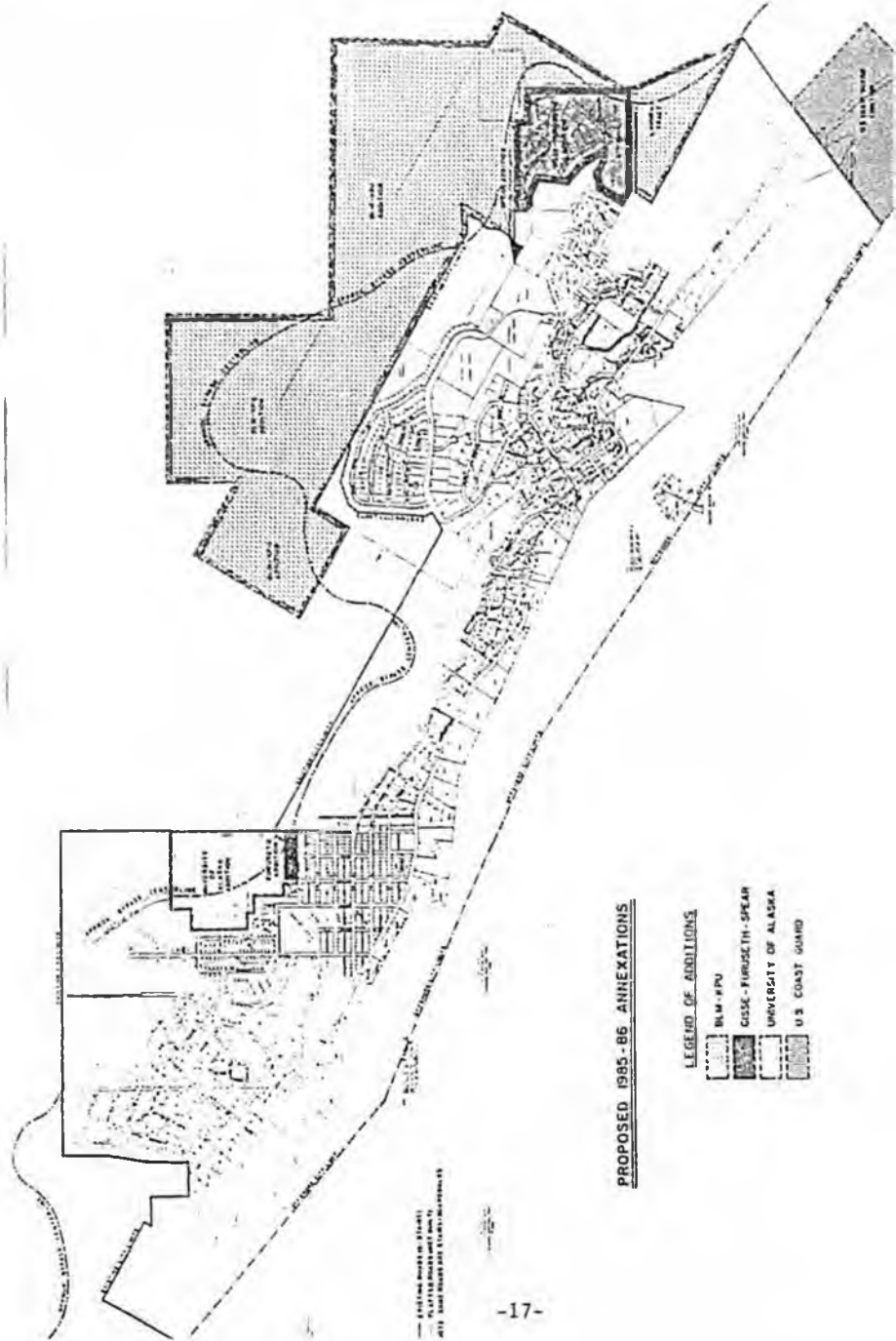


R DEN
DESIGN ASSOCIATES

1000 W. 10TH AVENUE, SUITE 100
DENVER, COLORADO 80202
TELEPHONE: 333-1111
FACSIMILE: 333-1111

Existing Area 231 sq. miles
Added Area 111.27 sq. miles
Total Area 342.27 sq. miles

— Existing City Boundary
- - - Proposed City Boundary



PROPOSED 1985-86 ANNEXATIONS

- LEGEND OF ADDITIONS
- BLM-FPU
 - GISE - FURUSETH-SPEAR
 - UNIVERSITY OF ALASKA
 - U.S. COAST GUARD

VII. RECOMMENDATION FOR THE ANNEXATION OF THE UNIVERSITY OF ALASKA ADDITION TO THE CITY OF KETCHIKAN

IN THE MATTER OF THE PETITION)
FOR ANNEXATION BY THE CITY OF)
KETCHIKAN, ALASKA OF)
APPROXIMATELY 48.30 ACRES,)
UNIVERSITY OF ALASKA ADDITION)

SUMMARY OF PROPOSED ACTION

On June 26, 1985, the City of Ketchikan petitioned for the annexation of approximately 48.30 acres contiguous to the City. On November 24, 1985, the Local Boundary Commission held a public hearing in Ketchikan on the petition. The petition was submitted pursuant to Section 29.68.010(a) of the Alaska Statutes (i.e. the process which requires concurrence from the Legislature).

The area proposed for annexation to the City of Ketchikan is owned by the University of Alaska. A representative of the University, Ketchikan Community College Campus President John Menzie, offered testimony in support of the proposed annexation. The University also submitted a letter supporting the proposed annexation. The petitioner has asserted that submission of the petition was predicated on assumptions that the parcel is likely to undergo development and that the City of Ketchikan is the most logical municipality to provide needed services to the site. Anticipated development is associated with the proposed expansion of the Ketchikan Community College campus and the addition of dormitory housing and additional classroom space. The territory also contains a portion of the Ketchikan by-pass route right-of-way, a proposed arterial linking the east and west portions of the City of Ketchikan.

The City is not now providing services to the property, but is the logical entity to provide services as a need develops. The City maintains a policy of providing services only within municipal boundaries. The Ketchikan Gateway Borough provides no special services to this area, except those which are provided area-wide to all residents of the Borough: planning and zoning; taxation; education; and animal control.

FINDINGS OF FACT

In arriving at its findings, documents and evidence considered by the Commission included, but were not limited to, the petition of the City of Ketchikan, the Report and Recommendation of the Department of Community and Regional Affairs and oral testimony provided at the November 24, 1985 public hearing in Ketchikan. After due consideration, the Commission finds that the area proposed for annexation conforms to certain of the regulatory standards governing annexation. The extent to which these standards are met is stated below.

Further, the Commission considered the request by the ISC to omit the five acre parcel owned by ISC in Area #2. The Commission determined that this request should not be granted since the five acres met the same standards as the remainder of Area #2 and that the parcel would be surrounded on three sides by territory within the jurisdiction of the City of North Pole if the petition were amended to exclude the referenced parcel. The referenced parcel would also be geographically separated from territory outside municipal jurisdiction by the Thirtymile Slough.

Further, the Commission finds that the City of North Pole is capable of extending and is willing to extend full municipal services as defined by 19 AAC 10.840(9). As such, annexation pursuant to Section 29.68.010(a) of the Alaska Statutes is deemed the most appropriate procedure for this boundary change.

On the basis of the above findings, the Commission approved without modification the petition for annexation of approximately 1.14 square miles by the City of North Pole.

The Commission hereby respectfully submits its recommendation to the Second Session of the Fourteenth Legislature for the annexation of the territory described in the City of North Pole's petition of June 10, 1985, and shown on the attached map.

effectiveness of response to any such future emergencies (provision of fire protection services on an extraterritorial basis is not authorized by the Alaska statutes).

FINDINGS OF FACT

In arriving at its findings, documents and evidence considered by the Commission included, but were not limited to, the petition of the City of North Pole, the Report and Recommendation of the Department of Community and Regional Affairs, the opposing brief from IEC, the response brief from the City of North Pole, the petition bearing signatures of more than 1,300 individuals opposed to the annexation of IEC's businesses and oral testimony provided at the October 26, 1985 hearing. After due consideration, the Commission finds that all three areas proposed for annexation conform to several of the regulatory standards governing annexation. The extent to which these standards are met is stated below.

- Each of the three areas is urban in character [19 AAC 10.070(a)(3)]. Area #1 is judged to be urban in character principally because of its potential for development. Area #2 is urban in character because of its existing development north of the Morning Star Subdivision and potential for development of the Morning Star Subdivision. Area #3 is urban in character because of its extensive industrial development.
- All three areas are in need of municipal services which the City can provide more efficiently than another municipality [19 AAC 10.070(a)(4)]. These services include municipal sewer and water utilities, fire protection, police protection and road maintenance.
- There is a reasonable likelihood that future growth and development will occur within the territory and that annexation of the territory will enable the City to plan for and control that development [19 AAC 10.070(a)(5)].
- The health, welfare or safety of residents will likely be endangered by the lack of sewer and water utilities since the areas have a high water table [19 AAC 10.070(6)]. Further, the fuel handling facility in Area #2 poses a potential public danger.
- Residents or property owners within the territory receive or may be reasonably expected to receive, directly or indirectly, the benefit of city government without commensurate property tax contributions [19 AAC 10.070(8)]. This is particularly evident in the extension of fire protection services.
- Construction of an underpass of the Richardson Highway is currently underway which will more closely link Area #2 and the areas within the existing boundaries of the City of North Pole.

1. Anticipated development in the area will generate the need for municipal services which the City can provide more efficiently than another municipality, pursuant to [19 AAC 10.070(a)(4)]. These services would include municipal sewer and water utilities and fire protection.
2. There is a reasonable likelihood that future growth and development will occur within the territory and that annexation of the territory will enable the City to plan for and control that development pursuant to [19 AAC 10.070(a)(5)].
3. The University of Alaska has identified the site for future dormitory housing, and formally supports the proposed annexation. The Addition also abuts residential housing areas on two sides, and there are City streets and roads which lead to the site.

CONCLUSIONS OF LAW

The petition for annexation of territory known as the University of Alaska Addition to the City of Ketchikan, as described in the petition of the City of Ketchikan, sufficiently meets standards for annexation to warrant inclusion within the boundaries of the City of Ketchikan.

STATEMENT OF DECISION

Based upon the Findings of Fact and Conclusions of Law stated above, IT IS ORDERED:

Upon tacit approval by the Second Session of the Fourteenth Legislature in accordance with the provisions of Article X Section 12 of the State Constitution, the territory described below shall be annexed to the City of Ketchikan:

That portion of U.S. Survey 1229, Ketchikan Recording District, First Judicial District, State of Alaska, more particularly bounded and described as follows:

Beginning at Corner No. 2, the northeast corner of said U.S. Survey 1229, thence South 1591.27 feet to the true point of beginning:

thence West a distance of 1117.31 feet;
thence South a distance of 300.00 feet;
thence West a distance of 297.70 feet;
thence South a distance of 856.12 feet;
thence S-89°43'-E a distance of 236.46 feet;
thence S-0°12'-W a distance of 100.00 feet;
thence S-89°43'-E a distance of 245.00 feet;
thence S-0°12'-W a distance of 440.00 feet;
thence S-89°43'-E a distance of 161.92 feet;
thence South a distance of 200.00 feet;
thence S-89°43'-E a distance of 36.21 feet;

thence North a distance of 100.01 feet;
 thence S-39°48'-E a distance of 650.00 feet;
 thence South a distance of 200.00 feet;
 thence S-02°48'-E a distance of 37.31 feet;
 thence North a distance of 1901.07 feet to the true
 point of beginning.

The hereinabove described parcel of land contains 48.30 acres,
 more or less.

The Local Boundary Commission hereby respectfully submits its
 recommendation to the Second Session of the Fourteenth
 Legislature for the annexation of the territory included in the
 above description and shown on the attached map.

IX. RECOMMENDATION FOR THE ANNEXATION OF TERRITORY TO THE
 CITY OF NORTH POLE

SUMMARY OF THE PROPOSED ANNEXATION:

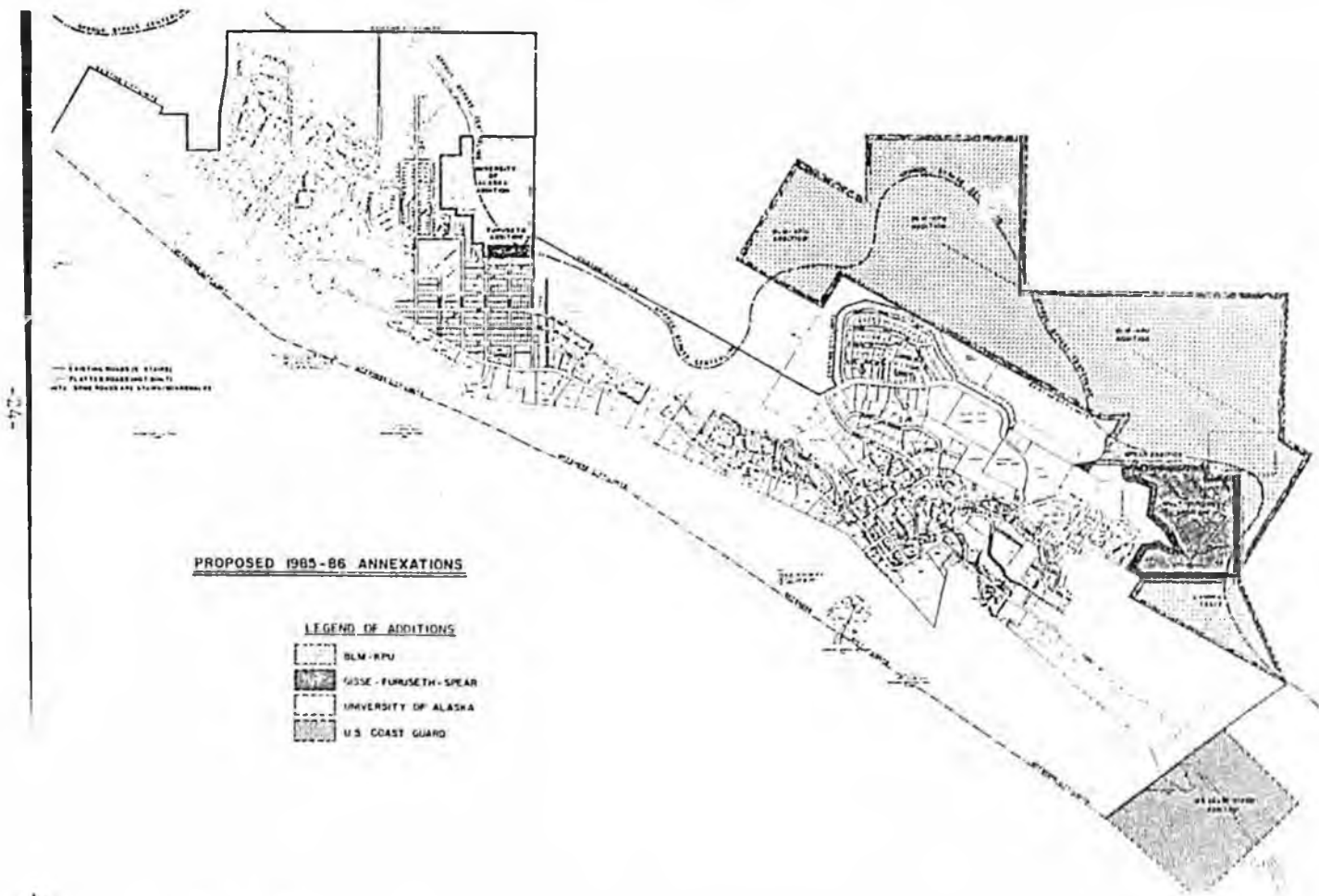
On June 10, 1985, the City of North Pole petitioned for the
 annexation of three separate areas totalling approximately
 729.6 acres (1.14 square miles) of land contiguous to the
 City. The annexation proposal was made pursuant to Section
 Article X Section 12 of the State Constitution (i.e. the
 process which requires concurrence from the State Legislature).

The first of these three separate areas, referred to as
 Area #1, is northwest of the existing municipal boundaries and
 is comprised of approximately 605 acres (0.95 square miles).
 This territory consists primarily of undeveloped parcels of
 land ranging in size from 5 to 110 acres. Testimony provided
 to the Commission at its hearing conducted on this matter in
 North Pole on October 26, 1985, indicated that a majority of
 the land owners in Area #1 support the proposed annexation.

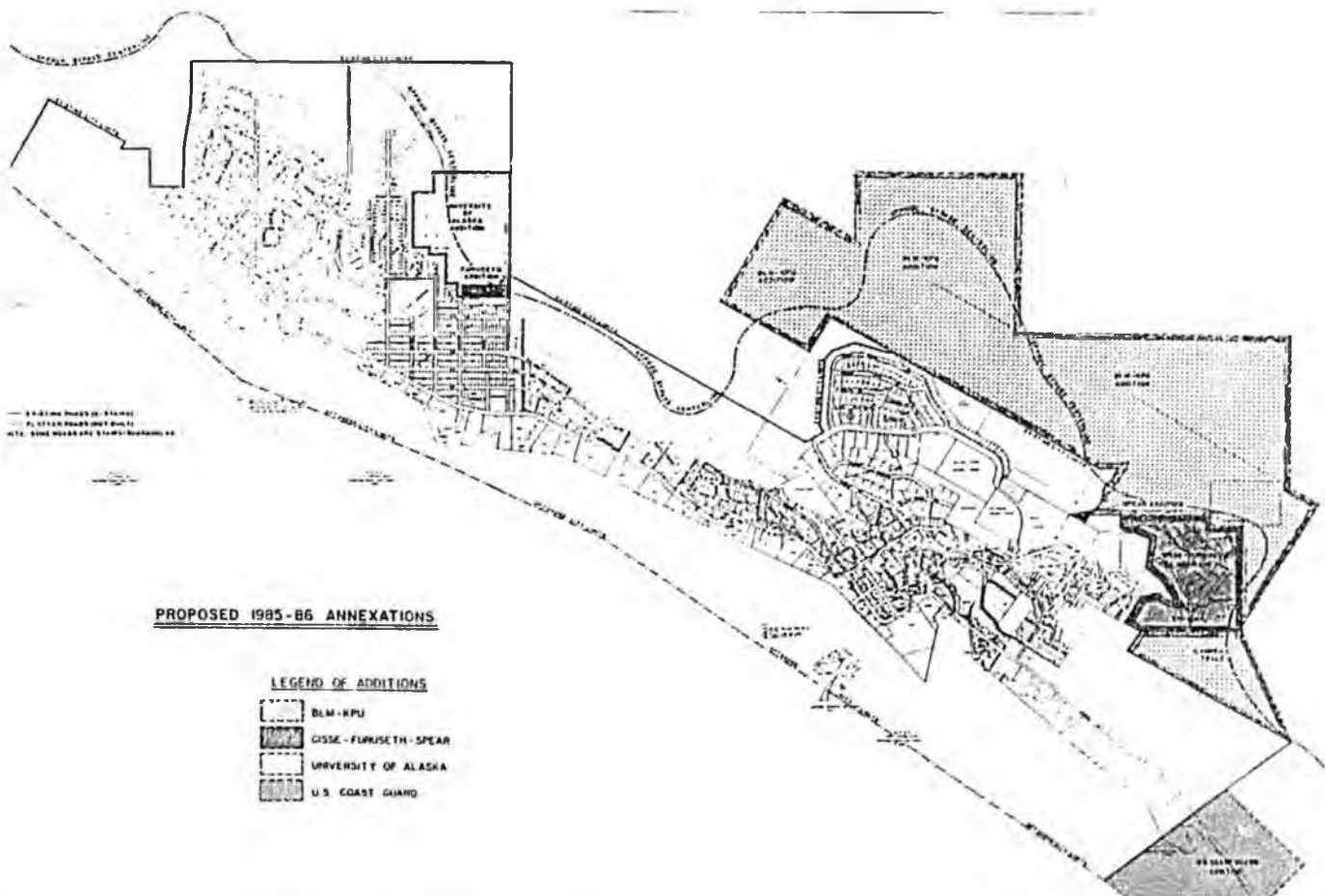
The area referred to as Area #2 is east of the existing
 municipal boundaries and is comprised of approximately 73 acres
 (0.11 square miles). Area #2 contains the Morning Star
 Subdivision and several parcels with small businesses north of
 the subdivision. The owner of the subdivision supports the
 proposed annexation. However, the Interior Energy Corporation
 (IEC), which owns a number of businesses in this area, opposed
 the proposed annexation. IEC's property holdings in Area #2
 include a shopping mall, truck stop and fuel sales facility.
 In addition to submitting a brief opposing the proposed
 annexation, IEC representatives offered considerable oral
 testimony at the October 26 hearing on the petition by the
 Local Boundary Commission. The IEC opposition brief requested
 that the Commission deny the petition, "or alternatively, (deny
 the petition) insofar as it applies to the portion of proposed
 Area #2 north of the Morning Star Subdivision."

During the course of its deliberations, the Commission duly
 considered the brief and oral testimony relating to the
 annexation of that portion of Area #2 owned by IEC.

The area referred to as Area #3 is south of the existing
 municipal boundaries and contains approximately 51 acres
 (0.08 square miles). Area #3 contains the recently constructed
 Petro Star refinery, the owners of which have expressed support
 for the proposed annexation, both in writing to the City of
 North Pole and in oral testimony before the Commission. At the
 public hearing on the petition conducted by the Commission on
 October 26, 1985, a representative of the Petro Star refinery
 testified concerning a recent fire at the facility and the need
 for municipal fire protection at the facility to maximize



-24-



-21-

VIII. RECOMMENDATION FOR THE ANNEXATION OF THE U.S. COAST
GUARD ADDITION TO THE CITY OF KETCHIKAN

IN THE MATTER OF THE PETITION)
FOR ANNEXATION BY THE CITY OF)
KETCHIKAN, ALASKA OF)
APPROXIMATELY 121.31 ACRES)
DESCRIBED AS THE U.S. COAST GUARD)
ADDITION)

SUMMARY OF PROPOSED ACTION

On June 26, 1985, the City of Ketchikan petitioned for the annexation of approximately 121.31 acres contiguous to the City. The petition was submitted pursuant to Section 29.6B.010(a) of the Alaska Statutes (i.e. the process which requires Legislative concurrence).

51.24 acres of the 121.31 acres proposed for annexation to the City of Ketchikan are currently within the confines of the U.S. Coast Guard Base in Ketchikan. The remaining acreage consists of coastal waters contiguous to existing offshore City of Ketchikan municipal boundaries. The existing City boundaries already encompass 9.23 acres of the Coast Guard Base's total 60.47 acres. The Base contains a variety of facilities including the Base Commander's residence, dormitory housing for the 32 enlisted personnel, buoy storage, munitions storage, rifle range, equipment storage and vacant land. The annexation would result in the addition of 32 residents to the City of Ketchikan. The existing municipal boundaries pass through the middle of a warehouse on the Base.

FINDINGS OF FACT

In arriving at its findings, documents and evidence considered by the Commission included, but were not limited to, the petition of the City of Ketchikan, the Report and Recommendation of the Department of Community and Regional Affairs and oral testimony provided at the November 24, 1985 hearing. After due consideration, the Commission finds that the area proposed for annexation conforms to two of the regulatory standards governing annexation. The extent to which these standards are met is stated below.

1. The area is urban in character pursuant to [19 AAC 10.070(a)(3)]. The Coast Guard Addition is judged to be urban in character principally because of the status of the most of the area as an operating Coast Guard facility and the residence of 32 Coast Guard personnel.
2. The area is in need of municipal services which the City can provide more efficiently than another municipality [19 AAC 10.070(a)(4)]. These services include municipal sewer and water utilities and fire protection.

CONCLUSIONS OF LAW

The territory proposed for annexation, known as the Coast Guard Addition, sufficiently meets standards for annexation to warrant inclusion within the boundaries of the City of Ketchikan. However, if approved as requested, the proposed annexation would create a 2.3 acre enclave outside the jurisdiction of the City which would be nearly surrounded by territory within the jurisdictional boundaries of the City. It is the conclusion of the Commission that such circumstances would likely cause difficulties in the delivery of municipal services. After reviewing the petition and conducting a hearing on the proposed annexation, the Local Boundary Commission concludes that the boundaries of the territory proposed for annexation shall be reduced to 85.59 acres to preclude the creation of the enclave.

STATEMENT OF DECISION

Based upon the Findings of Fact and Conclusions of Law stated above, IT IS ORDERED:

Upon tacit approval by the Second Session of the Fourteenth Legislature under the provisions of Article X Section 12 of the State Constitution, the territory described below shall be annexed to the City of Ketchikan:

A parcel of land within the Ketchikan Recording District, First Judicial District, State of Alaska, more particularly bounded and described as follows:

Beginning at Corner 2 of U.S. Survey 1667 Ketchikan Lighthouse Reserve as shown on the official government plat thereto;

thence S-43°58'-E a distance of 441.72 feet to the true point of beginning;
thence S-43°58'-E a distance of 1702.52 feet;
thence S-46°06'-W a distance of 1986.44 feet;
thence N-48°29'-W a distance of 1927.73 feet;
thence N-51°57'-E a distance of 2149.14 feet; to the true point of beginning

The hereinabove described parcel contains 85.59 acres.

The Local Boundary Commission hereby respectfully submits its recommendation to the Second Session of the Fourteenth Legislature for the annexation of the territory included in the above description and shown on the attached map.

**STATE OF ALASKA
LOCAL BOUNDARY COMMISSION**

Robert Eder, Chairman

Josephine Anderson

Bert Greist

David Hanson

Charles Bettisworth



**Report
to the
Second Session
of the
Fourteenth Legislature**

January 22, 1986

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I. PREFACE


Each year the Local Boundary Commission files a report with the State Legislature. The report this year serves the following principal functions:

- ° To provide a summary of all of the actions taken by the Local Boundary Commission during calendar year 1985.
- ° To submit for consideration to the Second Session of the Fourteenth Legislature, recommendations of proposed municipal boundary changes which require legislative review pursuant to the provisions of Article X § 12 of the State Constitution, AS 44.47.567(b)(2), and AS 29.06.040. Specifically, this Report contains recommendations for the annexation of territory to the Cities of Angoon, Ketchikan, North Pole, St Paul, and Unalaska, as well as a recommendation for detachment of territory from the North Slope Borough.
- ° To bring to the attention of the Legislature issues relating to: 1) the desire of certain residents to dissolve their municipal governments in favor of Native governments and 2) the impacts of the Federal Voting Rights Act on matters relating to the Local Boundary Commission proceedings.

This Report is respectfully submitted this 22nd day of January, 1986.

STATE OF ALASKA
LOCAL BOUNDARY COMMISSION

BY:



Robert Eder, Chairman

For Robert Eder



OFFICIAL BUSINESS

Alaska State Legislature

Senate

Office of the Secretary

JAN 22 RECO

PO BOX V
CAPITOL BUILDING
JUNEAU, ALASKA 99911

January 22, 1986

MEMORANDUM TO: Senator DeVries, Chairman
Community and Regional Affairs
Committee

FROM: Peggy Mulligan,
Secretary of the Senate

Subject: Local Boundary Commission
proposed annexations

The President referred the annual Local Boundary Commission report to your committee for possible action. Attached is the letter accompanying the report.

According to the attached letter, you were sent a copy of the report from the Local Boundary Commissioner.

March 7 is the last day that the House and Senate could pass a concurrent resolution to stop any of the annexations, (45 days after receipt of the report).

Pages 13 - 56 of the report will appear in Joint House-Senate Supplement No. 16 to today's journal.

#28

BILL SHEFFIELD, GOVERNOR

before March 7

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

LOCAL BOUNDARY COMMISSION

949 EAST 36TH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99508
PHONE: (907) 561-8586

Members:

Robert Eder
Chairman

Josephine Anderson
First Judicial District

Bert Greist
Second Judicial District

Dave Hanson
Third Judicial District

Charles Bettisworth
Fourth Judicial District

January 22, 1986

The Honorable Don Bennett
Senate President
P.O. Box V
Juneau, AK 99811

Dear Senator Bennett:

Enclosed is the Report to the Second Session of the Fourteenth Legislature by the Alaska Local Boundary Commission.

The Report contains recommendations for the annexation of territory to the Cities of Angoon, Ketchikan, North Pole, St./Paul, and Unalaska, as well as a recommendation for detachment of territory from the North Slope Borough. Pursuant to Article X § 12 of the State Constitution, AS 44.47.567(b)(2), and AS 29.06.040, these recommended boundary changes will become effective forty-five days from this date or at the end of the Session, whichever is earlier, unless disapproved by a concurrent resolution of the Legislature.

In addition, the Report provides: 1) a synopsis of the role and function of the Local Boundary Commission, 2) an executive summary of all of the actions taken by the Commission during calendar year 1985 and 3) a statement of issues which the Commission wishes to bring to the attention of the Legislature.

The Honorable Don Bennett
January 22, 1986
Page 2

Each year, the Local Boundary Commission attends a joint hearing of the Community and Regional Affairs Committees of the House and Senate to discuss the annual report of the Commission. We look forward to meeting with those Committees at their convenience.

Sincerely,


Robert Eder
Chairman

for Robert Eder

cc with attachment:
The Honorable Bill Sheffield
Governor

SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE
The Honorable Edna DeVries, Chairman
The Honorable Frank R. Ferguson, Vice Chairman
The Honorable John B. "Jack" Coghill
The Honorable Arliss Sturgulewski
The Honorable Vic Fischer
Yvonne Alford, Staff (with 2 copies of the Report)

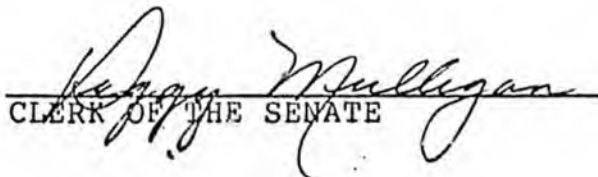
Members of the Local Boundary Commission

The Honorable Emil Notti, Commissioner
Department of Community and Regional Affairs

THIS ACKNOWLEDGES RECEIPT OF THE "REPORT TO THE SECOND SESSION OF THE FOURTEENTH LEGISLATURE" SUBMITTED BY THE STATE OF ALASKA LOCAL BOUNDARY COMMISSION WITHIN THE FIRST 10 DAYS OF THE SESSION IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE X SECTION 12 OF THE STATE CONSTITUTION, AS 44.47.567(b)(2) AND AS 29.06.040.

RECEIVED: JANUARY 22, 1986

TIME: 9:10 am


CLERK OF THE SENATE

II. BACKGROUND

ROLE OF THE LOCAL BOUNDARY COMMISSION

Delegates to the State Constitutional Convention recognized that the establishment and revision of local government boundaries should primarily be the responsibility of the State. To carry out this responsibility, the delegates provided in Article X § 12 of the State Constitution that,

A local boundary commission or board shall be established by law in the executive branch of the state government. The commission or board may consider any proposed local government boundary change. It may present proposed changes to the legislature during the first ten days of any regular session. The change shall become effective forty-five days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house. The commission or board, subject to law, may establish procedures whereby boundaries may be adjusted by local action.

Subsequent enactments of law granted powers and duties to the Local Boundary Commission regarding the adjustment of jurisdictional boundaries of municipalities, as well as the formation, merger, consolidation and dissolution of municipal governments. Powers and duties of the Commission specifically include the following:

- ° to make studies of municipal government boundary problems [AS 44.47.567(a)(1)];
- ° to hold hearings and act upon proposals for changing jurisdictional boundaries of municipal governments [AS 44.47.567(a)(3) and AS 29.06.040];
- ° to hold hearings and act upon petitions for the incorporation of cities and boroughs (AS 29.05.010-210);
- ° to hold hearings and act upon petitions for the merger or consolidation of two or more municipal governments (AS 29.06.090-170); and
- ° to hold hearings and act upon petitions for the dissolution of municipal governments (AS 29.06.450-530).

COMPOSITION OF THE COMMISSION

The Local Boundary Commission consists of five members. One member is appointed by the Governor from each of the four Judicial Districts of the state. The fifth member, who serves

as Chairman of the Commission, is appointed by the Governor from the state at-large. Members of the Commission serve without compensation and are appointed to serve staggered five year terms.

The current members of the Commission are:

- Robert Eder, Chairman, serving at-large (current term expires January 31, 1987);
- Charles Bettisworth, Vice Chairman, serving from the Fourth Judicial District (current term expires January 31, 1990);
- Josephine Anderson, serving from the First Judicial District (current term expires January 31, 1986);
- Bert Greist, serving from the Second Judicial District (current term expires January 31, 1989); and
- David Hanson, serving from the Third Judicial District (current term expires January 31, 1988).

TECHNICAL AND ADMINISTRATIVE SUPPORT TO THE COMMISSION

The Alaska Department of Community and Regional Affairs, Division of Municipal and Regional Assistance, provides technical and administrative support to the Commission. Such support includes the following principal responsibilities:

- providing assistance to prospective petitioners who wish to bring actions before the Local Boundary Commission;
- reviewing the form and content of petitions which have been filed with the Commission to determine compliance with applicable laws and regulations;
- analyzing proposed actions and preparing formal reports and recommendations to the Local Boundary Commission; and
- providing general technical and administrative support, including drafting findings of fact, conclusions of law and statements of decision following Commission action; providing public notice of all proceedings; preparing minutes of all meetings; et cetera.

SYNOPSIS OF PROCEDURES

The following provides a brief summary of the procedures and different types of actions which may be brought before the Commission. Details concerning the procedures may be obtained by reviewing the statutes and administrative regulations referenced in this synopsis.

Formation of Municipal Governments:

City and borough governments are incorporated under the provisions of State laws and administrative regulations. The Local Boundary Commission must judge each incorporation proposal using standards established in those laws and regulations.

Examples of standards for incorporation of cities include the following: suitable size and stability of population, an economy which includes the human and financial resources necessary to provide municipal services, and a need for local government. Examples of standards for incorporation of boroughs include the following: a socially, culturally and economically interrelated and integrated population; jurisdictional boundaries which conform to natural geography; an economy which includes the human and financial resources necessary to provide municipal services; and transportation facilities which allow the communication and exchange necessary for the development of integrated borough government.

If the Commission approves a petition for the incorporation of a municipal government, the Lieutenant Governor's Office conducts an election on the proposed incorporation. A majority of the registered voters residing within the territory proposed for incorporation and voting on the issue must approve the proposed incorporation before it may be effected.

Further information concerning the procedures and standards which govern the incorporation of a city or borough may be obtained by referring to the statutes and regulations listed below:

- ° standards for incorporation of a city -
AS 29.05.010-020 and 19 AAC 10.010-030;
- ° standards for incorporation of a borough -
AS 29.05.030 and 19 AAC 10.160-180; and
- ° procedures for incorporation of cities and boroughs -
AS 29.05.060 and 19 AAC 10.325-440.

Municipal Boundary Changes:

The Local Boundary Commission examines proposed annexations and detachments using standards established by administrative regulations.

Examples of standards for annexation include the following: whether the territory proposed for annexation is totally surrounded by the municipality; whether the territory is owned by the municipality; whether the territory is urban in character; whether the territory is in need of municipal services; whether there is a likelihood that future growth and development will occur in the territory; whether the health, welfare and safety of residents is endangered by developments in the territory; whether annexation of the territory is necessary to extend adequate service to residents

within the existing boundaries of the municipality; whether residents or property owners in the territory receive or expect to receive municipal services without commensurate tax contributions.

Standards for detachment include a determination that the proposed detachment is in the best interests of the State, the territory proposed for detachment and the municipality affected.

Annexations and detachments may be accomplished through either of two general processes, the Local Action process or the Legislative Review process. Each of these processes is explained below.

Local Action

Municipal boundary changes carried out under the Local Action process require approval of both the Local Boundary Commission and a majority of the voters, or in certain instances all of the property owners and voters, in the territory which comprises the proposed boundary change. There are four distinct methods by which municipal boundary changes may be effected under the Local Action process. The following is a discussion of these methods.

1. Annexation or Detachment by Election.

A petition may be presented to the Commission for the annexation or detachment of an area to be subject to an election. If the Commission approves the petition, the action does not take effect unless the proposed boundary change is approved by a majority vote of the residents of the territory affected.

2. Annexation of Municipally-owned Property.

Property which is owned by a municipality and which adjoins its present boundaries may be annexed by ordinance without voter approval. The annexation becomes effective with the approval of the Local Boundary Commission.

3. Annexation Upon Petition by All of the Resident Registered Voters and Property Owners

An area adjoining a municipality may be annexed if all of the property owners and all of the registered voters who reside within the territory petition the governing body for the boundary change. The annexation becomes effective through the adoption of an ordinance by the governing body of the municipality and the approval of the Local Boundary Commission.

4. Step Annexation

An annexation petition may seek for annexation to take effect gradually over a period not to exceed five years. If the Commission approves a petition for step annexation, the proposed annexation must also be approved by a majority of the voters in the affected area.

Legislative Review

Boundary changes under this process require the approval of the Local Boundary Commission and the State Legislature. If the Commission approves a petition for a municipal boundary change under the Legislative Review process, the Commission must submit a formal recommendation for the boundary change to the Legislature during the first ten days of a regular session. That recommendation is then subject to legislative veto within 45 days from the date it is submitted. If not rejected by the legislature during the 45 day review period, the boundary change becomes effective.

The Legislative Review process is typically used where circumstances do not lend themselves to the initiation of municipal boundary changes through the Local Action process. Such circumstances may include the following.

- ° If it would be impractical to seek annexation of territory through the Local Action process. For example, territory proposed for annexation may be uninhabited and may be owned by a substantial number of individuals, several of whom may be unknown. Thus, the matter could not be decided at an election nor would it be practical to obtain the approval of each of the property owners.
- ° If the interests of certain parties may not be adequately protected through the Local Action process. For example, one resident registered voter could theoretically seek the annexation or detachment under the Local Action Election method of his/her property consisting of a quarter-acre, and could seek the simultaneous annexation or detachment of an adjacent unpopulated 160 acre parcel of land. Such circumstances would likely be considered unfair to the owner(s) of the adjacent 160 acres. Thus, the Commission could compel consideration of the proposed municipal boundary change through the Legislative Review method.
- ° If there is a compelling public need for a boundary change, but there is uncertainty

whether a majority of residents in the territory affected would support the proposed boundary change.

This last circumstance is, unquestionably, the most controversial of the various processes and circumstances surrounding municipal boundary changes. However, as was addressed earlier, the provisions of Article X § 12 of the State Constitution were established to accommodate this very type of situation.

Decisions of the Alaska Supreme Court confirm the constitutional principle associated with Article X § 12 of the State Constitution without exception. In Fairview Public Utility Dist. No. 1 v. City of Anchorage, 368 P.2d 540 (Alaska 1962), the Supreme Court stated that, "An examination of the relevant minutes of [the constitutional proceedings] shows clearly the concept that was in mind when the local boundary commission was being considered: that local political decisions do not usually create proper boundaries and that boundaries should be established at the state level." Id. at 543. The court concluded, "The subject of ... municipal boundaries is legitimately the concern of the state as a whole, and not just that of the local community." Id. at 546.

Further information concerning the procedures and standards which govern the annexation and detachment of territory to a municipality may be obtained by referring to the statutes and regulations listed below:

- ° standards for annexation to cities -
19 AAC 10.065-090;
- ° standards for detachment from cities and unified municipalities -
19 AAC 10.95-120;
- ° standards for annexation to organized boroughs -
19 AAC 10.185-220;
- ° standards for detachment from organized boroughs
19 AAC 10.225-250;
- ° procedures for boundary changes by Local Action -
AS 29.06.040(c), AS 44.47.567(a)(4), 19 AAC
10.630-730 and 19 AAC 10.735-790; and
- ° procedures for boundary changes by Legislative Review -
Article X § 12 of the State Constitution,
AS 44.47.567(b)(2), AS 29.06.040(b) and
19 AAC 10.450-620.

Dissolution of Municipal Governments:

The Local Boundary Commission examines proposed dissolutions of municipal governments using

standards and procedures established by law and administrative regulations.

Standards for the dissolution of municipal governments include the following: whether the municipality is free of debt, whether it still meets the standards for incorporation or whether the municipality still exercises municipal powers.

If the proposed dissolution of a municipality is approved by the Local Boundary Commission, it may not be effected unless approved by a vote of the residents of the municipality or by the Legislature, depending on the particular process used.

Further information concerning the procedures and standards which govern the dissolution of a municipality may be obtained by referring to the statutes and regulations listed below:

- standards for dissolution of a city -
AS 29.06.470 and 19 AAC 10.130-150;
- standards for dissolution of a borough -
19 AAC 10.260-280; and
- procedures for dissolution of a municipality -
AS 29.06.450-530.

Consolidation or Merger of Municipal Governments

The Local Boundary Commission examines proposals for consolidation of municipalities (the creation of a new municipality from the union of two or more existing municipalities) and for the merger of municipalities (the absorption of one municipality by another existing municipality) using a standard and the procedures established by law and administrative regulations.

The standard for the merger or consolidation of municipalities is whether the successor municipality meets the standards for incorporation.

Further information concerning the procedures and standards which govern the consolidation or merger of municipalities may be obtained by referring to the statutes and regulations listed below:

- standards for merger of municipalities -
19 AAC 10.290-300;
- standards for consolidation of municipalities -
19 AAC 10.310-320;
- procedures for merger or consolidation -
AS 29.06.090-170 and 19 AAC 10.800-810.

III. EXECUTIVE SUMMARY OF ACTIVITIES OF THE LOCAL
BOUNDARY COMMISSION DURING CALENDAR YEAR 1985

The following is a summary of the petitions for municipal incorporation, dissolution and boundary change brought before the Commission in calendar year 1985.

MUNICIPAL INCORPORATIONS

Nabesna (Election District 6)

Residents of Nabesna petitioned for incorporation of a city of the second class. The area proposed for incorporation encompassed approximately 258.7 square miles. After carefully considering the matter, the Commission denied the petition on the basis that the standards for incorporation had not been met. The size and stability of the population (approximately 36 individuals, several of whom were part-time residents), as well as the very limited economic base of the community were the principal concerns of the Commission.

Bettles (Election District 24)

The Commission's Report to the First Session of the Fourteenth Legislature noted that the Commission had approved (with amended boundaries) the petition for the incorporation of Bettles in 1984. The proposed incorporation was approved by the voters on June 25, 1985. Requisite approval of the U.S. Justice Department under the provisions of the Federal Voting Rights Act was granted several months later.

In December, 1985, the City of Bettles became the 158th existing municipal government organized under the laws of the State of Alaska.

DISSOLUTIONS

City of Akiachak (Election District 25)

Residents of the City of Akiachak petitioned for the dissolution of their city government. After carefully considering the matter, the Commission denied the petition. While the Commission was understanding of the desires of the residents of Akiachak to dissolve their municipal government in favor of government by their IRA Council, present laws and regulations do not permit dissolution on the basis of such circumstances.

Issues relating to the proposed dissolution of municipal governments under these and similar circumstances are discussed in greater detail in Section XIII of this Report.

BOUNDARY CHANGES - LOCAL ACTION

City of Fairbanks (Election District 20)

The Local Boundary Commission approved the petition of the

City of Fairbanks for the annexation of the King Industrial Park, comprising approximately 9.1 acres. The annexation was undertaken at the request of all of the property owners in the territory proposed for annexation.

The Local Boundary Commission also approved a petition for annexation by election of the Wiedeman-King Subdivision, comprising approximately 83 acres. However, the proposed annexation was rejected by the voters and, accordingly, will not be effected.

City of Wasilla (Election District 16)

The Local Boundary Commission approved the petition for the annexation of the Mission Hills Subdivision, comprised of approximately 16.7 acres. The annexation was undertaken at the request of all of the property owners and resident registered voters in the territory proposed for annexation.

The Local Boundary Commission also approved the petition of the City of Wasilla for the annexation of the Cottonwood Creek Mall and surrounding territory comprising a total of 265.91 acres. This annexation was undertaken at the request of all of the property owners and resident registered voters in the territory proposed for annexation.

City of Galena (Election District 24)

The Local Boundary Commission approved the petition of the City of Galena for the annexation of approximately 533 acres of municipally owned property.

City of Klawock (Election District 02)

The Local Boundary Commission approved the petition for the annexation of a newly constructed shopping center comprising approximately 6.52 acres. The annexation was undertaken at the request of all of the property owners in the territory proposed for annexation.

City of Kodiak (Election District 27)

The Local Boundary Commission approved a petition for annexation by election of the following areas: the Southeast Addition No. 2, Hospital Subdivision, Mission Lake Subdivision and the unsurveyed portion of Mission Lake, including property owned by the Women American Baptist Mission; totalling approximately 81.3 acres (0.1271 square miles). The matter is scheduled to be voted upon by the residents of the territory proposed for annexation in April, 1986.

BOUNDARY CHANGES, LEGISLATIVE REVIEW

City of Angoon (Election District 02)

The City of Angoon petitioned for the annexation of territories in the areas of Killisnoo Island, Favorite Bay, Michael Bay and Hood Bay comprising approximately 87 square miles. After carefully applying the standards for

*Angoon wanted 87 sq miles
decided on 30.1 sq miles*

annexation to cities, the Commission determined that only a portion of the requested territory should be annexed to the City. The Commission approved the annexation of approximately 30.14 square miles. Details of the territory proposed for annexation, including a map of the area involved and the Commission's Findings of Fact and Statement of Decision, are contained in the formal recommendation for the annexation of this territory found in Section IV of this Report.

City of Ketchikan (Election District 01)

The City of Ketchikan submitted separate petitions for the annexation of the following four areas:

- BLM-KPU Additions (515.62 acres);
- Gisse-Furuseth-Spear Additions (58.609 acres);
- University of Alaska Addition (48.30 acres); and
- U.S. Coast Guard Addition (121.31 acres).

The Commission approved, without modification, the petitions for the annexation of the Gisse-Furuseth-Spear Additions, the University of Alaska Addition and the BLM - KPU Additions. The territory proposed for annexation as the U.S. Coast Guard Addition was judged to be excessive. Therefore, the Commission reduced the boundaries of that particular annexation proposal and subsequently approved the petition.

Details of the territories proposed for annexation, including maps of the areas involved and the Commission's Findings of Fact and Statements of Decision, are contained in the formal recommendation for the annexation of these territories found in this Report as follows:

- BLM-KPU Additions - Section V;
- Gisse-Furuseth-Spear Additions - Section VI;
- University of Alaska Addition - Section VII; and
- U.S. Coast Guard Addition - Section VIII.

City of North Pole (Election District 18)

The Local Boundary Commission approved the petition of the City of North Pole for the annexation of three separate parcels totalling approximately 1.14 square miles. Details of the territory proposed for annexation, including a map of the area involved and the Commission's Findings of Fact and Statement of Decision, are contained in the formal recommendation for the annexation of this territory found in Section IX of this Report.

City of St. Paul (Election District 26)

The Local Boundary Commission approved the petition of the City of St. Paul for the annexation of the surrounding Islands of Otter and Walrus, Sea Lion Rock and the adjacent waters; totalling approximately 194 square miles. Details of the territory proposed for annexation, including a map of area involved and the Commission's Findings of Fact and Statement of Decision, are contained in the formal

recommendation for the annexation of this territory found in Section X of this Report.

City of Unalaska (Election District 26)

*Wanted 1,294 sq miles
Approved 189*

The City of Unalaska petitioned for the annexation of much of Unalaska Island and surrounding territories totalling approximately 1,294 square miles. After carefully applying the standards for annexation to cities, the Commission determined that only a portion of the requested territory should be annexed to the City. The Commission approved the annexation of approximately 189 square miles. Details of the territory proposed for annexation, including a map of the area involved and the Commission's Findings of Fact and Statement of Decision, are contained in the formal recommendation for the annexation of this territory found in Section XI of this Report.

North Slope Borough (Election District 22)

Residents of the NANA Region have proposed to form a borough. The petition for the detachment of approximately 3,298 square miles from the North Slope Borough was initiated in order to provide an adequate tax base for the proposed Northwest Arctic Borough. The territory proposed for detachment consists of the land within the NANA Regional Corporation boundaries, including the Red Dog zinc mine site. The Department of Community and Regional Affairs acted as petitioner in this matter because there was no other qualified entity which was willing to initiate the action. The detachment was sought on the condition that the boundary change not take effect unless and until a borough was formed in the NANA Region.

The Local Boundary Commission approved the petition for detachment without modification. Details of the territory proposed for annexation, including a map of area involved and the Commission's Findings of Fact and Statement of Decision, are contained in the formal recommendation for the annexation of this territory found in Section XII of this Report.

IV. RECOMMENDATION FOR THE ANNEXATION OF TERRITORY TO THE CITY OF ANGOON

IN THE MATTER OF THE PETITION)
FOR ANNEXATION BY THE CITY OF)
ANGOON, ALASKA, OF APPROXIMATELY)
87 SQUARE MILES, CONSISTING)
OF KOOTZNOOWOO INLET INCLUDING)
MITCHELL, FAVORITE AND)
KANALKU BAYS, KILLISNOO ISLAND,)
A PORTION OF TABLE AND SAND)
ISLANDS AND HOOD BAY, INCLUDING)
NORTH ARM)

*(Mary-Ak Lumber/Pulp)
Opposed: Alaska Pulp - 747-2232
Roger Snipper - Shee Atika, Inc. - 747.3534
Snipper will advise several property owners
if telecon desired in Sitka
Wanted 87 sq miles
got 30*

SUMMARY OF PROPOSED ACTION

On August 7, 1985, the City of Angoon submitted a petition for annexation of approximately 87 square miles, consisting of Kootznoowoo Inlet, including Mitchell, Favorite and Kanalku Bays, Killisnoo Island, a portion of Table and Sand Islands and Hood Bay, including North Arm. The annexation was submitted pursuant to Section 29.68.010(a) of the Alaska Statutes (i.e. the process which requires concurrence from the State Legislature).

The Local Boundary Commission conducted a hearing on the petition in Angoon on November 22, 1985. Members of the Commission present at the hearing were Acting Chairman Charles Bettisworth, Dave Hanson and Bert Greist.

Opposition to the proposed annexation was lodged by several property owners in the Hood Bay area. These individuals expressed a desire to remain in an unincorporated area and contended that they would accrue no measurable benefits as a result of the proposed annexation. They also stated that the City would not benefit by annexing the residents' property. Briefs opposed to the proposed annexation were also filed by the Alaska Pulp Corporation and Shee Atika, Inc.

The Commission conducted a decisional session on the petition in Anchorage on December 9, 1985. Present at the decisional session were Acting Chairman Charles Bettisworth, Dave Hanson, Jo Anderson and Bert Greist.

FINDINGS OF FACT

In arriving at its findings, documents and other evidence considered by the Commission included, but were not limited to, the petition and supporting briefs of the City of Angoon, briefs in opposition to the annexation filed by the Alaska Pulp Corporation and Shee Atika, Inc., the Report and Recommendation of the Department of Community and Regional Affairs and testimony provided at the Commission's November 22, 1985

hearing. Following its deliberations on this matter, the Local Boundary Commission made the following findings of fact:

1. The petitioner and residents of the community perceive a need to control land use and development of the area proposed for annexation in order to monitor and appropriately regulate growth, development and tourism activities in the area. Annexation of the amended area will afford the City an opportunity to more efficiently protect the area's significant economic resources, historical and cultural resources and the livelihood of its residents.
2. A demonstrated need exists for the extension of municipal services to those areas planned for development in the near future, particularly Killisnoo Island.
3. A road to Favorite Bay across village corporation lands is planned by the City to secure an additional water source. The road would open up the area for additional homesites, a new dump site and a cemetery. The petitioner has estimated that thirty additional homesites will be needed to accommodate increased resident population.
4. The City of Angoon provides search and rescue operations and related services in the area proposed for annexation. However, the City does not have the authority to provide such services extraterritorially. If this territory is annexed, it will allow the City to continue such activity without the present liabilities associated with the lack of municipal jurisdiction.
5. In its deliberations, the Commission noted that the area most likely to be impacted by development in the near future is Killisnoo Island. A subdivision containing approximately fifty 1-acre parcels exists on the eastern half of the Island. Another 190 acres is owned by the village corporation. The City is not presently providing services to this area, but is the logical entity to provide services as the area develops.
6. The 660 feet of land immediately above the mean high tide line in the Mitchnell, Kanaku and Favorite Bay area is almost entirely owned by the Kootznoowoo Corporation. All development on these lands are subject to PL 96-487, Alaska National Interest Lands Conservation Act (ANILCA) Section 506.(a)(3)(C), which strictly limits development and activities on this land to ensure protection of subsistence resources and its uses.
7. The area of Hood Bay is also an economically important subsistence hunting and fishing area to the people of Angoon. The strong cultural links to the area were pointed out at the public hearing on the petition conducted by the Commission on November 22, 1985. Specifically, testimony

indicated that some 30% of the residents of the community grew up in Hood Bay and that the area is presently used extensively by community residents. The Commission also heard testimony that there is need for law enforcement services in the bay.

8. The petitioner indicated that residents of the community desire the City to regulate, to the extent possible, development and tourist activity on the Angoon Community Association (IRA) parcel in the Hood Bay area and in the general vicinity of Hood Bay. Annexation of the territory would provide the City with the authority to do so.
9. Three land owners of the Hood Bay area opposed the annexation petition. The landowners submitted a letter to the Local Boundary Commission objecting to the annexation contending that is nothing to be gained by the annexation, either by the City or themselves. There is one permanent resident living in this area.
10. The Kootznoowoo Corporation, the local village Native corporation, owns approximately 190 acres of Killisnoo Island and another 3,300 acres adjacent to the community. In addition, there are five Native Allotments within the territory proposed for annexation. The U.S. Forest Service Admiralty Monument is the largest land holder within the area proposed for annexation. The potential for many private land transfers and the prospect of upcoming ANCSA 14(c) land conveyances to residents and the City of Angoon have raised concerns regarding future development on important cultural and subsistence lands.
11. The population of a portion of the territory, specifically Killisnoo Island and Favorite Bay, may stem from growth of the City beyond its legal boundaries. Most of the territory proposed for annexation contains very steep slopes and is fairly remote. Growth is more likely to occur on Killisnoo Island. The growth may be attributed to a "spilling over" of present City population and the availability of City services such as sewer, water, police and fire protection.
12. Portions of the territory to be annexed may be valuable by reason of their suitability for prospective urban purposes. Specifically, Killisnoo Island may be suitable for additional residential development. The Island is immediately adjacent to the present City limits, and is most likely to receive City services in the future.
13. There are no other municipalities in or near the territory proposed for annexation.
14. The City maintains that its volunteer fire department is in the position to provide service to the Killisnoo Island area. The City also states that it now currently serves

and would respond with City fire equipment wherever feasible to all lands proposed for annexation.

15. Fire service is provided by the Federal government for all Federal lands and for Kootznoowoo corridor lands in Mitchell, Kanalku and Favorite Bays.
16. The City may be called upon to provide emergency services to Killisnoo Island, which is adjacent to the City and most likely to develop. The City may also be called upon to provide search and rescue and police protection to the Killisnoo Harbor area.
17. The potential for private or public development in the territory will determine the need by the City of Angoon to exercise municipal planning authority. The City has indicated in its petition that annexation of the territory will enable the City to plan for and control anticipated development. The petitioner lists anticipated development as a cold storage facility in Killisnoo Harbor, toilet facilities at the ferry terminal on Killisnoo Island, a road to Favorite Bay, a fish hatchery in Favorite Bay, homesite development on village corporation lands and the development of tourism and recreation in Hood Bay.
18. Local testimony at the Commission's public hearing on November 22, 1985 called for increased law enforcement service to Favorite and Hood Bays. Testimony was provided indicating that the City has the capability to provide such services to the areas.
19. Anticipated development pressures on Killisnoo Island may create a need for public services and facilities. Also, the proximity of this area to existing City services makes it most likely to develop in the near future. In addition, a road and hatchery may be developed in the Favorite Bay area.
20. Residents of Angoon testified at the November 22, 1985 hearing that they feel the protection of their subsistence resources, their livelihood and their way of life (which has been a major viable economy), and their cultural heritage are valid public purposes that would be protected through the annexation of this territory and subsequent land use controls that will lead to carefully planned and reasonably regulated development.
21. The Commission finds that the residential subdivision on Killisnoo Island and development of tourist interests, such as two lodges, may impact the cultural and subsistence resources of the entire Angoon community. The Commission concurs that a valid public purpose will be served by annexation of this area.

22. Only a portion of the territory proposed for annexation is reasonably likely either to demand or to receive City services, particularly emergency medical and fire services and police protection, in the near future. This area is known as Killisnoo Island and Killisnoo Harbor, the private landholdings in the Hood Bay area and the Favorite Bay area.
23. There is a reasonable likelihood that future growth and development will occur in the vicinity of Angoon. However, the Commission anticipates that that this development will be limited to Killisnoo Island, Killisnoo Harbor, Hood Bay, and Favorite Bay.

CONCLUSIONS OF LAW

Applying the standards for annexation, only a portion of the area proposed for annexation can be justified for inclusion within the boundaries of the City of Angoon. This territory includes that area generally described as Killisnoo Island, Killisnoo Harbor, Favorite Bay, Hood Bay and the lands south and west of the existing municipal boundaries of the City of Angoon. The area encompasses approximately 30.14 square miles.

STATEMENT OF DECISION

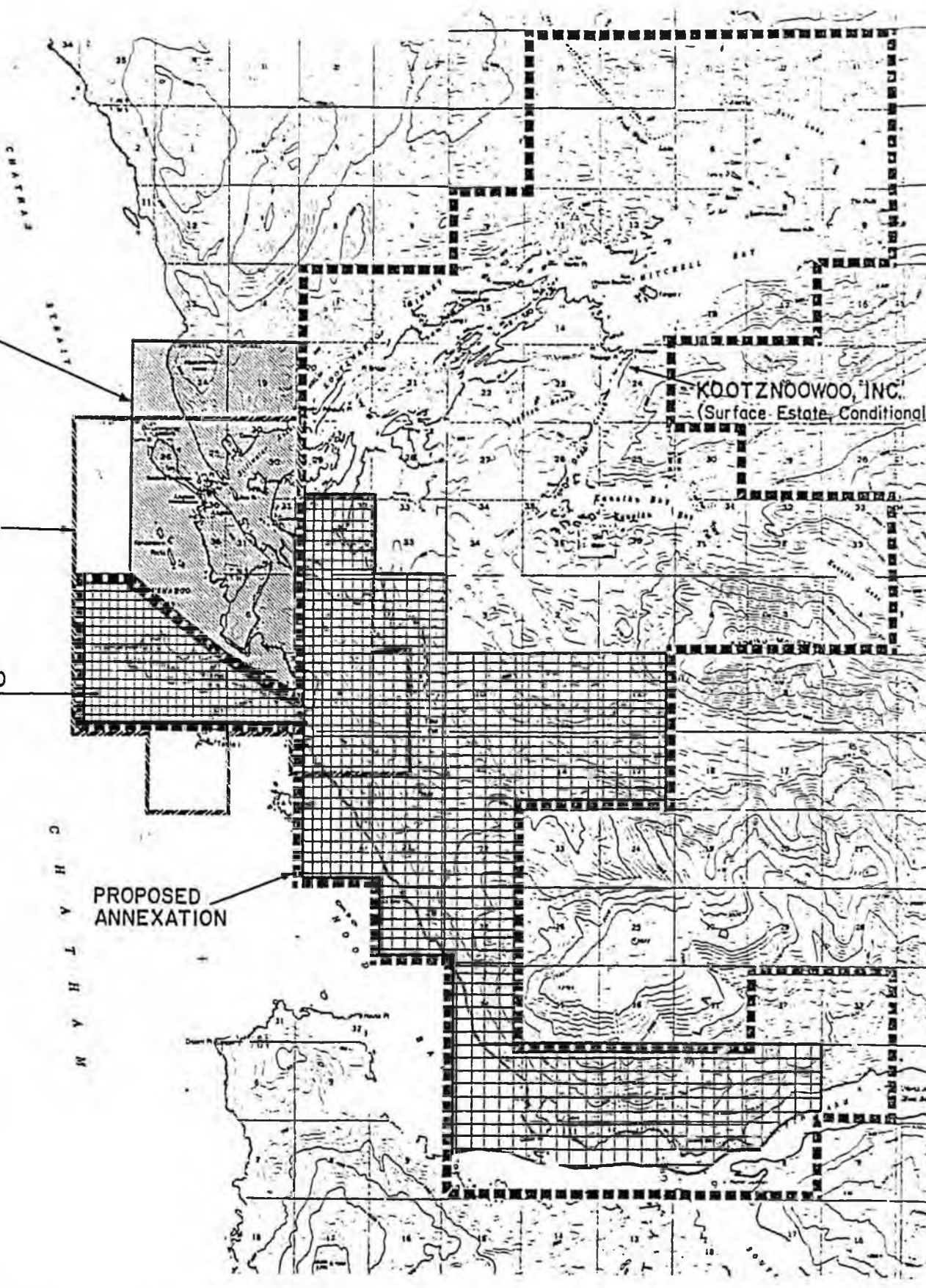
Based upon the Findings of Fact and Conclusions of Law stated above, IT IS ORDERED:

Upon tacit approval of the Second Session of the Fourteenth Legislature under the provisions of Article X, Section 12 of the State Constitution, the municipal boundaries of the City of Angoon shall be as follows:

Beginning at the NW corner Section 2, T51S, R67E, Copper River Meridian (C.R.M.); thence S to the SW corner of Section 11, T51S, R67E, C.R.M.; thence E to the SE corner of Section 7, T51S, R68E, C.R.M.; thence S to the SW corner of Section 20, T51S, R68E, C.R.M.; thence E to the SE corner of Section 20, T51S, R68E, C.R.M.; thence S to the SW corner of Section 28, T51S, R68E, C.R.M.; thence E to the SE corner of Section 28, T51S, R68E, C.R.M.; thence S to the SW corner of the NW 1/4 of Section 10, T52S, R68E, C.R.M.; thence E to the center of Hood Bay; thence meandering in an easterly direction along the center of Hood Bay to the center of North Arm of Hood Bay; thence meandering in a northeasterly direction along the center of North Arm of Hood Bay to a point with its intersection with the east boundary of Section 5, T52S, R69E, C.R.M.; thence N to the NE corner of Section 5, T52S, R69E, C.R.M.; thence W to the NW corner of Section 2, T52S, R68E, C.R.M.; thence N to the NE corner of Section 22, T51S, R68E, C.R.M.; thence E to the SE corner of Section 13, T51S, R68E, C.R.M.; thence N to the NE corner of Section 12, T51S,

R68E, C.R.M.; thence W to the NW corner of Section 10, T51S, R68E, C.R.M.; thence N to the NE corner of Section 4, T51S, R68E, C.R.M.; thence W to the NW corner of Section 4, T51S, R68E, C.R.M.; thence N to the NE corner of Section 32, T50S, R68E, C.R.M.; thence W to the NW corner of Section 32, T50S, R68E, C.R.M.; thence N to the NE corner of Section 19, T50S, R68E, C.R.M.; thence W to the NW corner of the NE 1/4 of the NE 1/4 of Section 23, T50S, R67E, C.R.M.; thence S to the NW corner of the NE 1/4 of the NE 1/4 of Section 2, T51S, R67E, C.R.M.; thence W to the NW corner of Section 2, T51S, R67E, C.R.M.; the point of beginning.

The Local Boundary Commission hereby respectfully submits its recommendation to the Second Session of the Fourteenth Legislature for the annexation of the territory included in the above description and shown on the attached map.



EXISTING BOUNDARY

KOOTZNOOWOO INC.
(Surface Estate)

RECOMMENDED BOUNDARY

PROPOSED ANNEXATION

KOOTZNOOWOO, INC.
(Surface Estate, Conditional)



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SCALE IN MILES

V. RECOMMENDATION FOR THE ANNEXATION OF THE BLM-KPU ADDITIONS TO THE CITY OF KETCHIKAN

IN THE MATTER OF THE PETITION)
FOR ANNEXATION BY THE CITY OF)
KETCHIKAN, ALASKA OF)
APPROXIMATELY 515.62 ACRES,)
DESCRIBED AS THE BLM-KPU ADDITIONS))
_____)

SUMMARY OF PROPOSED ACTION

On June 26, 1985, the City of Ketchikan petitioned for the annexation of approximately 515.62 acres contiguous to the City and described as the BLM-KPU Additions. On November 24, 1985, the Local Boundary Commission held a public hearing in Ketchikan on the petition. The petition was submitted pursuant to Section 29.68.010(a) of the Alaska Statutes (i.e. the process which requires concurrence from the Legislature).

The majority of area proposed for annexation to the City of Ketchikan is owned by the United States Bureau of Land Management and the City of Ketchikan Public Utilities. Annexation will permit the City to provide needed urban services in an area where growth is anticipated and the City is the only logical entity to provide such services. The territory is readily accessible only via territory within the jurisdiction of the City of Ketchikan.

The territory is not urban in character. It is largely undeveloped open space, with the exception of a sanitary landfill and improvements related to the Ketchikan municipal water supply.

The territory will most probably be in need of municipal services as the community confronts growth caused by the development and operation of the U.S. Borax mine. The petitioner maintains that the City can provide services to the site more efficiently than any other municipality.

The petitioner asserts that there is a reasonable likelihood that the territory will become further developed in the foreseeable future. This assertion is based upon the City's contention that the area contains the surveyed right-of-way of a proposed bypass route linking the eastern and western portions of the City of Ketchikan; it contains lands identified for disposal and residential development and it has been identified as a probable location for future development related to operation of the U.S. Borax molybdenum mine. The petitioner maintains that it is prudent for the City to prepare for possible settlement and urban use of the territory.

The Ketchikan Gateway Borough has expressed no objection to the proposed annexation.

FINDINGS OF FACT

In arriving at its findings, documents and evidence considered by the Commission included, but were not limited to, the petition of the City of Ketchikan, the Report and Recommendation of the Department of Community and Regional Affairs and oral testimony provided at the November 24, 1985 hearing. After due consideration, the Commission finds that the area proposed for annexation conforms to several of the regulatory standards governing annexation. The extent to which these standards are met is stated below.

1. The territory will be in need of municipal services if a planned local land disposal and consequent residential development occurs. The City of Ketchikan can provide necessary services to the site more efficiently than any other municipality.
2. The health, welfare or safety of City residents could potentially be endangered if the watershed located within the area proposed for annexation were substantially disturbed. The referenced territory is in close proximity to residential areas, and this access poses increased potential for fire hazards in the watershed and for vandalism to water service facilities. It is prudent for the City of Ketchikan extend police and fire protection services to the territory.
3. There is a reasonable likelihood that future growth and development will occur within the territory and that annexation of the territory will enable the City to prudently plan for and control that development pursuant to [19 AAC 10.070(5)].

CONCLUSIONS OF LAW

The annexation of territory known as the BLM-KPU Addition to the City of Ketchikan, as described in the petition of the City of Ketchikan, sufficiently meets standards for annexation to warrant inclusion within the boundaries of the City of Ketchikan.

STATEMENT OF DECISION

Based upon the Findings of Fact and Conclusions of Law stated above, IT IS ORDERED:

Upon tacit approval by the Second Session of the Fourteenth Legislature in accordance with the provisions of Article X Section 12 of the State Constitution, the territory described below shall be annexed to the City of Ketchikan:

A parcel of land located in the Ketchikan Recording District (K.R.D.), First Judicial District, State of Alaska, more particularly bounded and described as follows:

Beginning at the northernmost corner of Lot 2, Block 4, U.S.M.S. 769, a brass cap monument as shown on plat 73-8, K.R.D.; thence northwesterly along the northern boundary of the Utica Lode Claim to the NW corner of said claim as shown on the plat of the Claim of James A. Davis, Mineral Survey 769, recorded May 7, 1904, Juneau Land District; thence southwesterly to the NE corner of the Columbia Lode Claim; thence northwesterly to the NW corner of the Columbia Lode Claim, this point being in common with the western boundary of U.S.M.S. 769; thence northeasterly along said boundary to the NW corner of U.S.M.S. 769, this point being in common with the NW corner of the Cosmos Lode Claim; thence southeasterly along the north boundary of U.S.M.S. 769 to its point of intersection with the western boundary of the E 1/2 of the NW 1/4 of protracted section 19, T75S, R91E, Copper River Meridian (CRM); thence north to the NW corner of the E 1/2 of the NW 1/4 of protracted section 19, T75S, R91E, C.R.M.; thence east to the NE corner of the W 1/2 of the NE 1/4 of protracted section 19, T75S, R91E, C.R.M.; thence south to the northern boundary line of U.S.M.S. 769; thence southeasterly along said boundary line to its intersection with the north boundary of the NE 1/4 of the SE 1/4 of protracted section 19, T75S, R91E, C.R.M.; thence east to the NE corner of the SW 1/4 of protracted section 20 T75S, R91E, C.R.M.; thence south to the northerly boundary of U.S.M.S. 769; thence southeasterly along said boundary to the NE corner of U.S.M.S. 769, this corner being in common with the NE corner of the Sterling Lode Claim; thence southwesterly along the eastern boundary of U.S.M.S. 769 to its point of intersection with the east boundary of U.S.S. 2635; thence north to corner 5 of U.S.S. 2635 as shown on plat 77-43, K.R.D.; thence west to corner 4 of U.S.S. 2635; thence north to corner 3 of U.S.S. 2635; thence west to corner 2 of U.S.S. 2635; thence north to corner 1 of U.S.S. 2635; thence northeasterly to corner 4 of U.S.S. 2435 according to the official government plat thereof; thence northerly along the centerline of the Ketchikan Creek to corner 3 of U.S.S. 2435; thence southwesterly to corner 2 of U.S.S. 2435; thence southwesterly to the NE corner of Washington Lode Claim; thence northeasterly along the northern boundary of the Washington, Tuscarora, and Utica Claims to the point of beginning.

The Local Boundary Commission hereby respectfully submits its recommendation to the Second Session of the Fourteenth Legislature for the annexation of the territory included in the above description and shown on the attached map.

225-3111
City attorney = Russ Walker

VI. RECOMMENDATION FOR THE ANNEXATION OF THE GISSE-FURUSETH-SPEAR ADDITIONS TO THE CITY OF KETCHIKAN

IN THE MATTER OF THE PETITION)
FOR ANNEXATION BY THE CITY OF)
KETCHIKAN, ALASKA OF)
APPROXIMATELY 58.609 ACRES)
CONSISTING OF THREE SEPARATE)
PARCELS, COLLECTIVELY DESCRIBED)
AS THE GISSE-FURUSETH-SPEAR)
ADDITIONS)

opposed by Edward King on behalf of Furuseth Estate

SUMMARY OF PROPOSED ACTION

On June 26, 1985, the City of Ketchikan petitioned for the annexation of three separate areas totalling approximately 58.609 acres of land contiguous to the City. The referenced petition was submitted pursuant to Section 29.68.010(a) of the Alaska Statutes (i.e. the process which requires Legislative concurrence).

The territory proposed for annexation consists of the three parcels identified and described as follows and collectively described as the Gisse-Furuseth-Spear Additions:

1. the Furuseth Addition is in the northwest portion of the City adjacent to the University Addition and consists of 2.879 acres;
2. the Spear Addition, in the southeast part of the City, is virtually surrounded by property already within the boundaries of the City and consists of 0.47 acres; and
3. the Gisse-Furuseth Addition, an approved subdivision plat located near the Spear Addition, consists of 55.26 acres.

The Furuseth Addition is undeveloped and unpopulated. The Spear Addition is essentially one lot with a single-family dwelling, and it is almost entirely surrounded by territory within the City limits. The Gisse-Furuseth Addition is a 54 lot undeveloped subdivision, platted in the 1970's. The Gisse-Furuseth Addition is accessible by the Ketchikan Lakes Road, which also provides access to the sanitary landfill.

The petitioner states that its motive for proposing the annexation is to prepare for anticipated community growth and to resolve questions over service delivery.

The Gisse-Furuseth Addition is accessible, platted land which will be suitable for development as the demand for housing increases in the Ketchikan vicinity. The Furuseth Addition is undeveloped land which would be wholly surrounded by the City,

if property owned by the University of Alaska is annexed by the City. The annexation of the University of Alaska's property has been requested by University officials, and a petition for annexation of the property has been approved by the Commission for submission to the Second Session of the Fourteenth Legislature. The Furusetn Addition is adjacent to City streets and residential development. Like the Gisse-Furuseth Addition, the Furusetn Addition will be suitable for development as the demand for housing increases in the Ketchikan vicinity. The Furusetn Addition is an undeveloped, unpopulated parcel surrounded on three sides by the proposed University Addition annexation, and on the fourth side by the territory within the boundaries of the City of Ketchikan. It is conveniently accessible only from territory within the municipal boundaries of the City of Ketchikan.

The Spear Addition consists of a 1/2 acre lot containing a single-family dwelling. The Spear Addition is, for all practical purposes, totally surrounded by territory already within the City. The Spear family receives City water and sewer service, access to its property over City streets, and benefits from City fire and police protection due to the proximity of its property to the existing boundaries of the City of Ketchikan.

FINDINGS OF FACT

In arriving at its findings, documents and evidence considered by the Commission included, but were not limited to, the petition of the City of Ketchikan, the Report and Recommendation of the Department of Community and Regional Affairs, the opposing brief from Edward King on behalf of the Furusetn Estate, and oral testimony provided at the November 24, 1985 hearing. After due consideration, the Commission finds that all three areas proposed for annexation conform to several of the regulatory standards governing annexation. The extent to which these standards are met is stated below.

1. Two of the three areas are urban in character pursuant to [19 AAC 10.070(a)(3)]. The Gisse-Furuseth Addition is judged to be urban in character principally because of its status as an approved subdivision plat and its potential for residential development. The Spear addition is urban in character because it is presently used for urban residential purposes.
2. All three areas are in need of municipal services which the City can provide more efficiently than another municipality [19 AAC 10.070(a)(4)]. These services include municipal sewer and water utilities, fire protection and police protection. Of the three areas, only the Spear Addition requires all of these services; the Gisse-Furuseth Addition requires only fire and police protection at this time.

3. The Furuseth Addition will be attractive for residential development as the demand for housing increases in the Ketchikan vicinity. There is a reasonable likelihood that future growth and development will occur within the territory and that annexation of the territory will enable the City to plan for and control that development [19 AAC 10.070(a)(5)].
4. Residents or property owners within the territory receive or may be reasonably expected to receive, directly or indirectly, the benefit of city government without commensurate property tax contributions [19 AAC 10.070(a)(3)]. This is particularly evident with respect to the Spear addition, the residents of which receive an entire range of basic city services without a concomitant tax contribution.
5. Further, the Commission considered the request by a representative of the Furuseth estate to reject the petition or to omit parcels owned in whole and in part by the Furuseth Estate. The Commission determined that this request should not be granted since the property in question met the above-referenced standards for annexation.

CONCLUSIONS OF LAW

The annexation of territory known as the Gisse-Furuseth-Spear Addition to the City of Ketchikan, as described in the petition of the City of Ketchikan, sufficiently meets standards for the annexation of territory to warrant inclusion within the boundaries of the City of Ketchikan.

STATEMENT OF DECISION

Based upon the Findings of Fact and Conclusions of Law stated above, IT IS ORDERED:

Upon tacit approval by the Second Session of the Fourteenth Legislature in accordance with the provisions of Article X Section 12 of the State Constitution, the territory described below shall be annexed to the City of Ketchikan:

Gisse-Furuseth Addition

That portion of U.S. Survey 2635, Ketchikan Recording District, First Judicial District, State of Alaska, more particularly bounded and described as follows:

Beginning at corner 7 of U.S. Survey 2635 as shown on recorded plat #77-43, said corner being a B.L.M. monument, and being in common with the eastern most corner of U.S. Survey 1381, this point being the point of beginning;

thence N-59°41'00"-W a distance of 275.88 feet;
thence N-31°01'00"-E a distance of 438.88 feet;

thence N-64°52'00"-E a distance of 60.26 feet;
thence N-85°26'00"-E a distance of 81.61 feet;
thence N-70°22'00"-E a distance of 84.19 feet;
thence N-83°56'00"-E a distance of 78.15 feet;
thence S-38°42'00"-E a distance of 74.86 feet;
thence S-59°18'00"-E a distance of 57.46 feet;
thence S-73°59'00"-E a distance of 129.34 feet;
thence N-29°21'17"-W a distance of 309.00 feet;
thence N-47°23'23"-W a distance of 355.00 feet;
thence N-6°40'44" -E a distance of 352.94 feet;
thence North a distance of 87.00 feet;
thence N-66°29'31"-W a distance of 239.64 feet;
thence West a distance of 126.00 feet;
thence N-39°10'00"-W a distance of 115.01 feet;
thence North a distance of 178.24 feet;
thence East a distance of 1311.97 feet;
thence South a distance of 147.18 feet;
thence East a distance of 460.35 feet;
thence South a distance of 1623.60 feet;
thence West a distance of 1483.68 feet to the point of beginning.

The hereinabove described parcel of land contains 55.26 acres, more or less.

Spear Addition

That parcel of land known as Tract A, U.S. Survey 2635, Ketchikan Recording District, First Judicial District, State of Alaska, more particularly bounded and described as follows:

Beginning at corner 1 of U.S.S. 2635 according to the official government plat thereof;

thence S-21°47'-W a distance of 34.65 feet;
thence East a distance of 116.94 feet;
thence S-23°00'00" -W a distance of 140.89 feet;
thence N-59°34' -W a distance of 255.40 feet;
thence N-79°-15'-E a distance of 174.24 feet to the point of beginning.

The hereinabove described parcel of land contains 0.47 acres, more or less.

Furuseth Addition

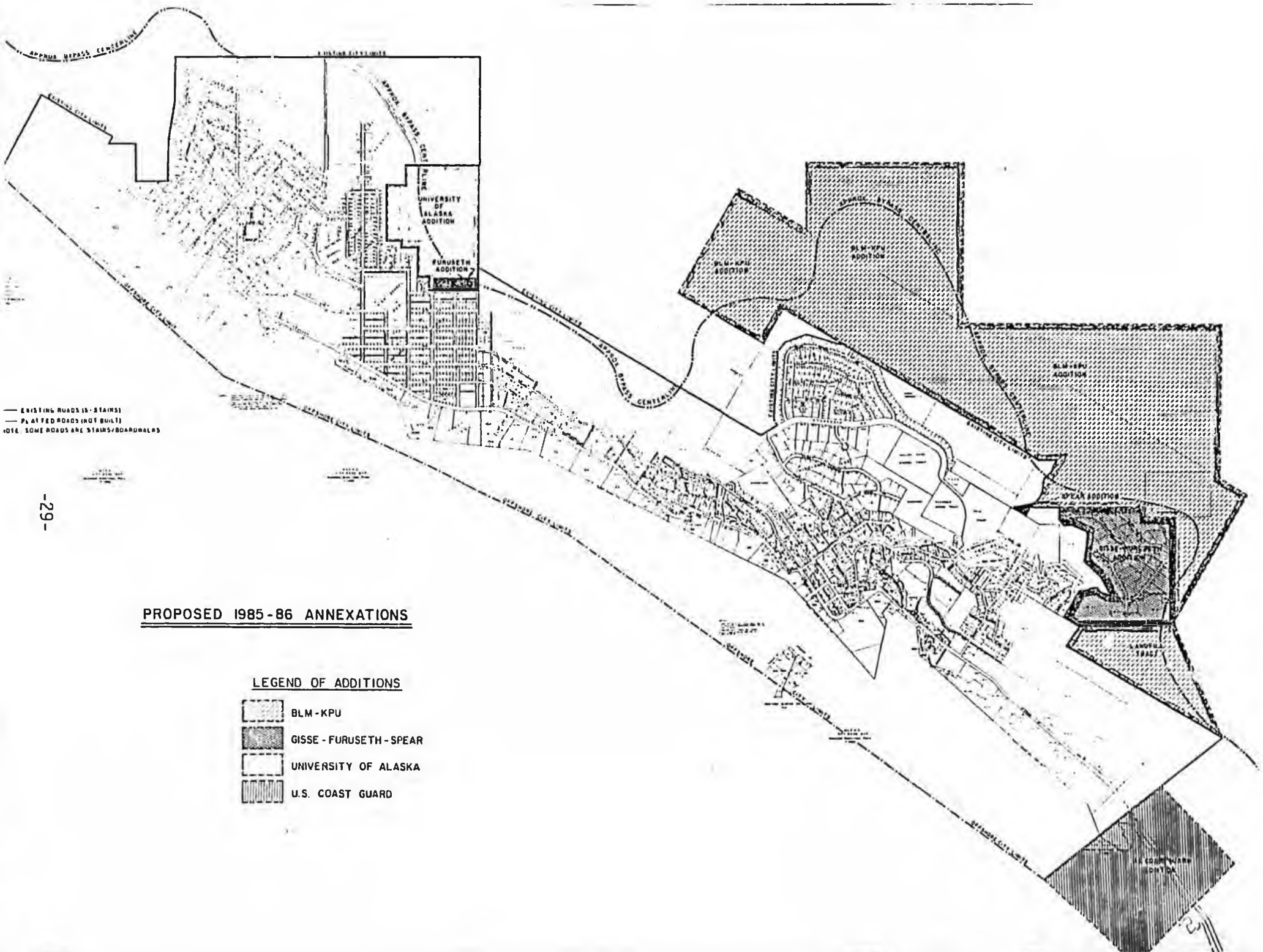
The parcel of land known as Tract E, U.S. Survey 1229, as shown on recorded plat #84-6, Ketchikan Recording District, First Judicial District, State of Alaska, more particularly bounded and described as follows:

Beginning at the southeastern most corner of Tract E, said corner being in common with the northeastern most corner of Lot 12A, Block 6, U.S. Survey 1229, this being the point of beginning;

thence N-89°48' -W a distance of 299.83 feet;
thence North a distance of 15 feet;
thence N-89°48' -W a distance of 175.27 feet;
thence along a curve concave to the South, (Radius=30
feet) an arc distance of 23.2' feet;
thence along a curve concave to the North (Radius=30
feet) an arc distance of 77.38 feet;
thence N-89°48' -W a distance of 100.42 feet;
thence North a distance of 200.00 feet;
thence S-89°48' -E a distance of 650.00 feet;
thence South a distance of 200.00 feet to the point of
beginning.

The hereinabove described parcel of land contains 2.879 acres,
more or less.





The Local Boundary Commission hereby respectfully submits its
recommendation to the Second Session of the Fourteenth
Legislature for the annexation of the territory included in the
above description and shown on the attached map.



- - - EXISTING ROADS (S - STAMPS)
 — PLANNED ROADS (NOT BUILT)
 NOTE: SOME ROADS ARE STAMPS/BOARDWALKS

PROPOSED 1985 - 86 ANNEXATIONS

LEGEND OF ADDITIONS

-  BLM - KPU
-  GISSE - FURUSETH - SPEAR
-  UNIVERSITY OF ALASKA
-  U.S. COAST GUARD

VII. RECOMMENDATION FOR THE ANNEXATION OF THE UNIVERSITY OF ALASKA ADDITION TO THE CITY OF KETCHIKAN

IN THE MATTER OF THE PETITION)
FOR ANNEXATION BY THE CITY OF)
KETCHIKAN, ALASKA OF)
APPROXIMATELY 48.30 ACRES,)
UNIVERSITY OF ALASKA ADDITION)
_____)

SUMMARY OF PROPOSED ACTION

On June 26, 1985, the City of Ketchikan petitioned for the annexation of approximately 48.30 acres contiguous to the City. On November 24, 1985, the Local Boundary Commission held a public hearing in Ketchikan on the petition. The petition was submitted pursuant to Section 29.68.010(a) of the Alaska Statutes (i.e. the process which requires concurrence from the Legislature).

The area proposed for annexation to the City of Ketchikan is owned by the University of Alaska. A representative of the University, Ketchikan Community College Campus President Jonn Menzie, offered testimony in support of the proposed annexation. The University also submitted a letter supporting the proposed annexation. The petitioner has asserted that submission of the petition was predicated on assumptions that the parcel is likely to undergo development and that the City of Ketchikan is the most logical municipality to provide needed services to the site. Anticipated development is associated with the proposed expansion of the Ketchikan Community College campus and the addition of dormitory housing and additional classroom space. The territory also contains a portion of the Ketchikan by-pass route right-of-way, a proposed arterial linking the east and west portions of the City of Ketchikan.

The City is not now providing services to the property, but is the logical entity to provide services as a need develops. The City maintains a policy of providing services only within municipal boundaries. The Ketchikan Gateway Borough provides no special services to this area, except those which are provided areawide to all residents of the Borough: planning and zoning; taxation; education; and animal control.

FINDINGS OF FACT

In arriving at its findings, documents and evidence considered by the Commission included, but were not limited to, the petition of the City of Ketchikan, the Report and Recommendation of the Department of Community and Regional Affairs and oral testimony provided at the November 24, 1985 public hearing in Ketchikan. After due consideration, the Commission finds that the area proposed for annexation conforms to certain of the regulatory standards governing annexation. The extent to which these standards are met is stated below.

1. Anticipated development in the area will generate the need for municipal services which the City can provide more efficiently than another municipality, pursuant to [19 AAC 10.070(a)(4)]. These services would include municipal sewer and water utilities and fire protection.
2. There is a reasonable likelihood that future growth and development will occur within the territory and that annexation of the territory will enable the City to plan for and control that development pursuant to [19 AAC 10.070(a)(5)].
3. The University of Alaska has identified the site for future dormitory housing, and formally supports the proposed annexation. The Addition also abuts residential housing areas on two sides, and there are City streets and roads which lead to the site.

CONCLUSIONS OF LAW

The petition for annexation of territory known as the University of Alaska Addition to the City of Ketchikan, as described in the petition of the City of Ketchikan, sufficiently meets standards for annexation to warrant inclusion within the boundaries of the City of Ketchikan.

STATEMENT OF DECISION

Based upon the Findings of Fact and Conclusions of Law stated above, IT IS ORDERED:

Upon tacit approval by the Second Session of the Fourteenth Legislature in accordance with the provisions of Article X Section 12 of the State Constitution, the territory described below shall be annexed to the City of Ketchikan:

That portion of U.S. Survey 1229, Ketchikan Recording District, First Judicial District, State of Alaska, more particularly bounded and described as follows:

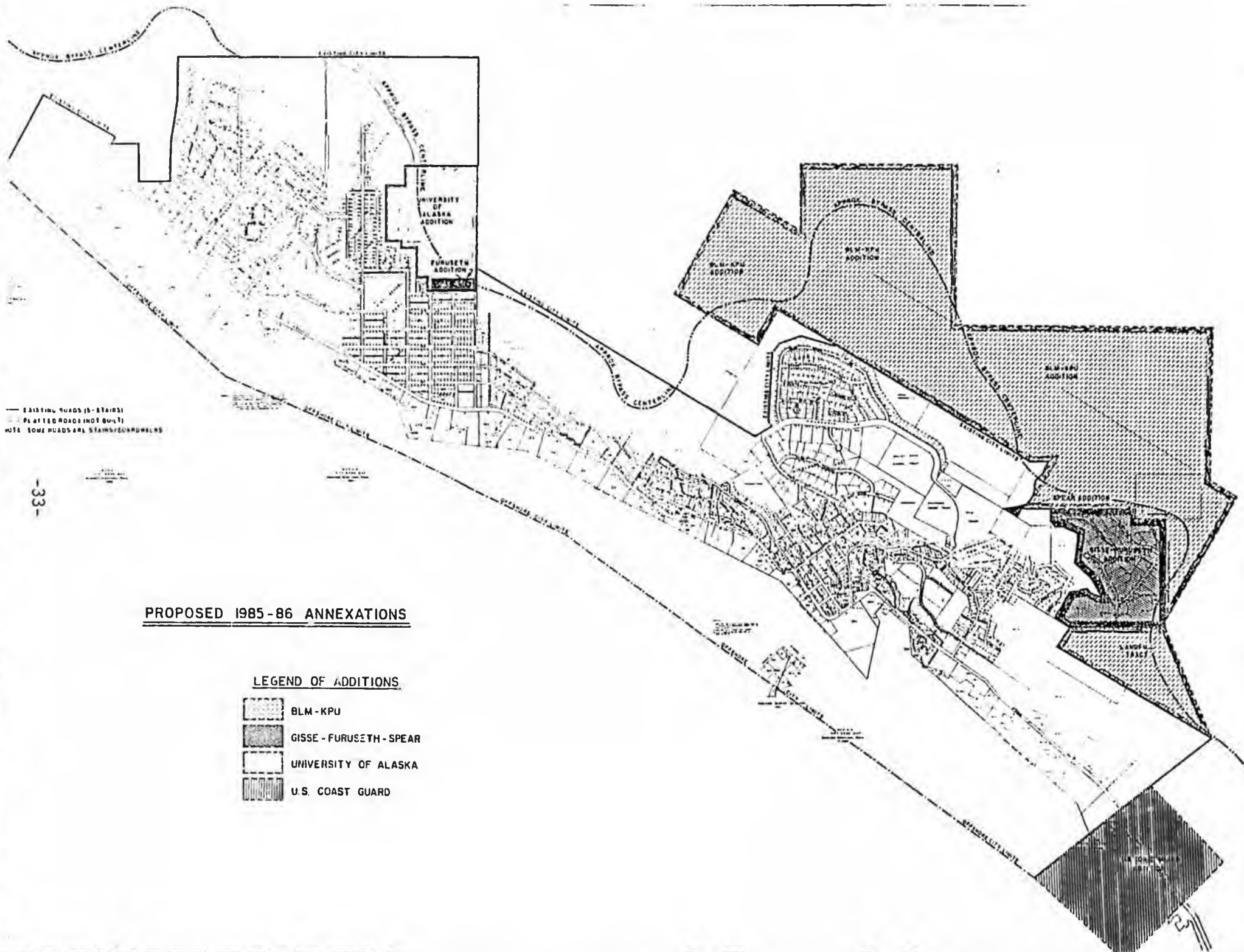
Beginning at Corner No. 2, the northeast corner of said U.S. Survey 1229, thence South 1591.27 feet to the true point of beginning:

thence West a distance of 1117.31 feet;
 thence South a distance of 300.00 feet;
 thence West a distance of 297.70 feet;
 thence South a distance of 856.12 feet;
 thence S-89°48'-E a distance of 236.46 feet;
 thence S-0°12'-W a distance of 100.00 feet;
 thence S-89°48'-E a distance of 245.00 feet;
 thence S-0°12'-W a distance of 440.00 feet;
 thence S-89°48'-E a distance of 161.92 feet;
 thence South a distance of 200.00 feet;
 thence S-89°48'-E a distance of 36.21 feet;

thence North a distance of 200.00 feet;
thence S-89°48'-E a distance of 650.00 feet;
thence South a distance of 200.00 feet;
thence S-89°48'-E a distance of 37.31 feet;
thence North a distance of 1901.07 feet to the true
point of beginning.

The hereinabove described parcel of land contains 48.30 acres,
more or less.

The Local Boundary Commission hereby respectfully submits its
recommendation to the Second Session of the Fourteenth
Legislature for the annexation of the territory included in the
above description and shown on the attached map.







— EXISTING ROADS (S - STAIRS)
 - PLANNED ROADS (NOT BUILT)
 NOTE: SOME ROADS ARE STAIRS/GUARDBANKS

-33-

PROPOSED 1985 - 86 ANNEXATIONS

LEGEND OF ADDITIONS

-  BLM - KPU
-  GISSE - FURUSEETH - SPEAR
-  UNIVERSITY OF ALASKA
-  U.S. COAST GUARD

VIII. RECOMMENDATION FOR THE ANNEXATION OF THE U.S. COAST GUARD ADDITION TO THE CITY OF KETCHIKAN

IN THE MATTER OF THE PETITION)
FOR ANNEXATION BY THE CITY OF)
KETCHIKAN, ALASKA OF)
APPROXIMATELY 121.31 ACRES)
DESCRIBED AS THE U.S. COAST GUARD)
ADDITION)

*Proposed 121 acres
approved 86 acres*

SUMMARY OF PROPOSED ACTION

On June 26, 1985, the City of Ketchikan petitioned for the annexation of approximately 121.31 acres contiguous to the City. The petition was submitted pursuant to Section 29.68.010(a) of the Alaska Statutes (i.e. the process which requires Legislative concurrence).

51.24 acres of the 121.31 acres proposed for annexation to the City of Ketchikan are currently within the confines of the U.S. Coast Guard Base in Ketchikan. The remaining acreage consists of coastal waters contiguous to existing offshore City of Ketchikan municipal boundaries. The existing City boundaries already encompass 9.23 acres of the Coast Guard Base's total 60.47 acres. The Base contains a variety of facilities including the Base Commander's residence, dormitory housing for the 32 enlisted personnel, buoy storage, munitions storage, rifle range, equipment storage and vacant land. The annexation would result in the addition of 32 residents to the City of Ketchikan. The existing municipal boundaries pass through the middle of a warehouse on the Base.

FINDINGS OF FACT

In arriving at its findings, documents and evidence considered by the Commission included, but were not limited to, the petition of the City of Ketchikan, the Report and Recommendation of the Department of Community and Regional Affairs and oral testimony provided at the November 24, 1985 hearing. After due consideration, the Commission finds that the area proposed for annexation conforms to two of the regulatory standards governing annexation. The extent to which these standards are met is stated below.

1. The area is urban in character pursuant to [19 AAC 10.070(a)(3)]. The Coast Guard Addition is judged to be urban in character principally because of the status of the most of the area as an operating Coast Guard facility and the residence of 32 Coast Guard personnel.
2. The area is in need of municipal services which the City can provide more efficiently than another municipality [19 AAC 10.070(a)(4)]. These services include municipal sewer and water utilities and fire protection.

CONCLUSIONS OF LAW

The territory proposed for annexation, known as the Coast Guard Addition, sufficiently meets standards for annexation to warrant inclusion within the boundaries of the City of Ketchikan. However, if approved as requested, the proposed annexation would create a 2.3 acre enclave outside the jurisdiction of the City which would be nearly surrounded by territory within the jurisdictional boundaries of the City. It is the conclusion of the Commission that such circumstances would likely cause difficulties in the delivery of municipal services. After reviewing the petition and conducting a hearing on the proposed annexation, the Local Boundary Commission concludes that the boundaries of the territory proposed for annexation shall be reduced to 85.59 acres to preclude the creation of the enclave.

STATEMENT OF DECISION

Based upon the Findings of Fact and Conclusions of Law stated above, IT IS ORDERED:

Upon tacit approval by the Second Session of the Fourteenth Legislature under the provisions of Article X Section 12 of the State Constitution, the territory described below shall be annexed to the City of Ketchikan:

A parcel of land within the Ketchikan Recording District, First Judicial District, State of Alaska, more particularly bounded and described as follows:

Beginning at Corner 2 of U.S. Survey 1667 Ketchikan Lighthouse Reserve as shown on the official government plat thereto;

thence S-43°58'-E a distance of 441.72 feet to the true point of beginning;

thence S-43°58'-E a distance of 1702.52 feet;

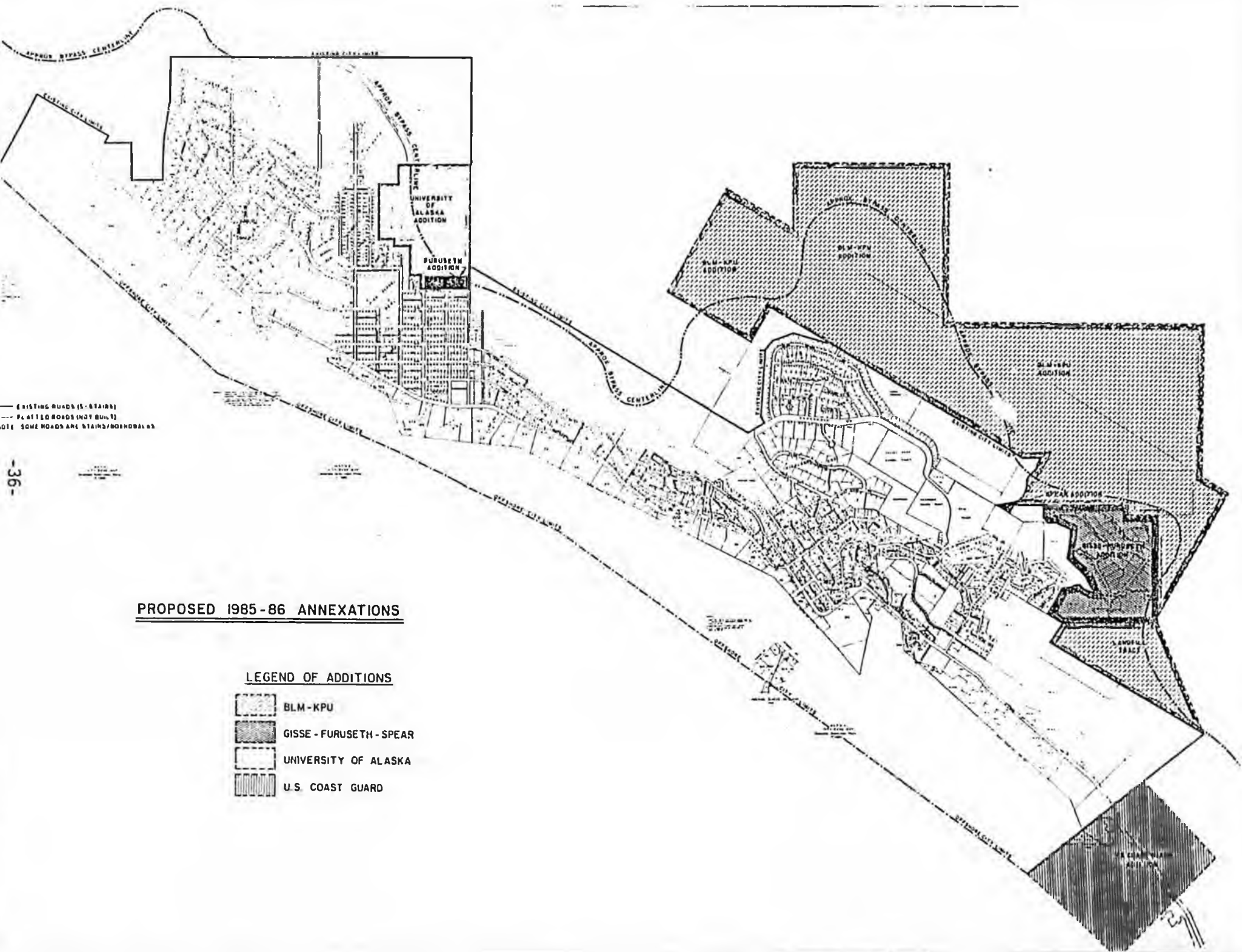
thence S-46°06'-W a distance of 1986.44 feet;

thence N-48°28'-W a distance of 1927.73 feet;

thence N-51°57'-E a distance of 2149.14 feet; to the true point of beginning





The hereinabove described parcel contains 85.59 acres.

The Local Boundary Commission hereby respectfully submits its recommendation to the Second Session of the Fourteenth Legislature for the annexation of the territory included in the above description and shown on the attached map.



— EXISTING ROADS (S - STAIRS)
 - - - PLANNED ROADS (NOT BUILT)
 ! ! ! SOME ROADS ARE STAIRS/BORROWED

PROPOSED 1985 - 86 ANNEXATIONS

- LEGEND OF ADDITIONS
-  BLM - KPU
 -  GISSE - FURUSETH - SPEAR
 -  UNIVERSITY OF ALASKA
 -  U.S. COAST GUARD

City of North Pole - Shelly Dugan, Clerk
488-2281

Petitioned for 730 acres
approved 730 acres
Interior Energy Corp. 456-1312

IX. RECOMMENDATION FOR THE ANNEXATION OF TERRITORY TO THE CITY OF NORTH POLE

SUMMARY OF THE PROPOSED ANNEXATION

On June 10, 1985, the City of North Pole petitioned for the annexation of three separate areas totalling approximately 729.6 acres (1.14 square miles) of land contiguous to the City. The annexation proposal was made pursuant to Section Article X Section 12 of the State Constitution (i.e. the process which requires concurrence from the State Legislature).

The first of these three separate areas, referred to as Area #1, is northwest of the existing municipal boundaries and is comprised of approximately 605 acres (0.95 square miles). This territory consists primarily of undeveloped parcels of land ranging in size from 5 to 110 acres. Testimony provided to the Commission at its hearing conducted on this matter in North Pole on October 26, 1985, indicated that a majority of the land owners in Area #1 support the proposed annexation.

The area referred to as Area #2 is east of the existing municipal boundaries and is comprised of approximately 73 acres (0.11 square miles). Area #2 contains the Morning Star Subdivision and several parcels with small businesses north of the subdivision. The owner of the subdivision supports the proposed annexation. However, the Interior Energy Corporation (IEC), which owns a number of businesses in this area, opposed the proposed annexation. IEC's property holdings in Area #2 include a shopping mall, truck stop and fuel sales facility. In addition to submitting a brief opposing the proposed annexation, IEC representatives offered considerable oral testimony at the October 26 hearing on the petition by the Local Boundary Commission. The IEC opposition brief requested that the Commission deny the petition, "or alternatively, (deny the petition) insofar as it applies to the portion of proposed Area #2 north of the Morning Star Subdivision."

During the course of its deliberations, the Commission duly considered the brief and oral testimony relating to the annexation of that portion of Area #2 owned by IEC.

The area referred to as Area #3 is south of the existing municipal boundaries and contains approximately 51 acres (0.08 square miles). Area #3 contains the recently constructed Petro Star refinery, the owners of which have expressed support for the proposed annexation, both in writing to the City of North Pole and in oral testimony before the Commission. At the public hearing on the petition conducted by the Commission on October 26, 1985, a representative of the Petro Star refinery testified concerning a recent fire at the facility and the need for municipal fire protection at the facility to maximize

effectiveness of response to any such future emergencies (provision of fire protection services on an extraterritorial basis is not authorized by the Alaska statutes).

FINDINGS OF FACT

In arriving at its findings, documents and evidence considered by the Commission included, but were not limited to, the petition of the City of North Pole, the Report and Recommendation of the Department of Community and Regional Affairs, the opposing brief from IEC, the response brief from the City of North Pole, the petition bearing signatures of more than 1,300 individuals opposed to the annexation of IEC's businesses and oral testimony provided at the October 26, 1985 hearing. After due consideration, the Commission finds that all three areas proposed for annexation conform to several of the regulatory standards governing annexation. The extent to which these standards are met is stated below.

- ° Each of the three areas is urban in character [19 AAC 10.070(a)(3)]. Area #1 is judged to be urban in character principally because of its potential for development. Area #2 is urban in character because of its existing development north of the Morning Star Subdivision and potential for development of the Morning Star Subdivision. Area #3 is urban in character because of its extensive industrial development.
- ° All three areas are in need of municipal services which the City can provide more efficiently than another municipality [19 AAC 10.070(a)(4)]. These services include municipal sewer and water utilities, fire protection, police protection and road maintenance.
- ° There is a reasonable likelihood that future growth and development will occur within the territory and that annexation of the territory will enable the City to plan for and control that development [19 AAC 10.070(a)(5)].
- ° The health, welfare or safety of residents will likely be endangered by the lack of sewer and water utilities since the areas have a high water table [19 AAC 10.070(6)]. Further, the fuel handling facility in Area #2 poses a potential public danger.
- ° Residents or property owners within the territory receive or may be reasonably expected to receive, directly or indirectly, the benefit of city government without commensurate property tax contributions [19 AAC 10.070(8)]. This is particularly evident in the extension of fire protection services.
- ° Construction of an underpass of the Richardson Highway is currently underway which will more closely link Area #2 and the areas within the existing boundaries of the City of North Pole.

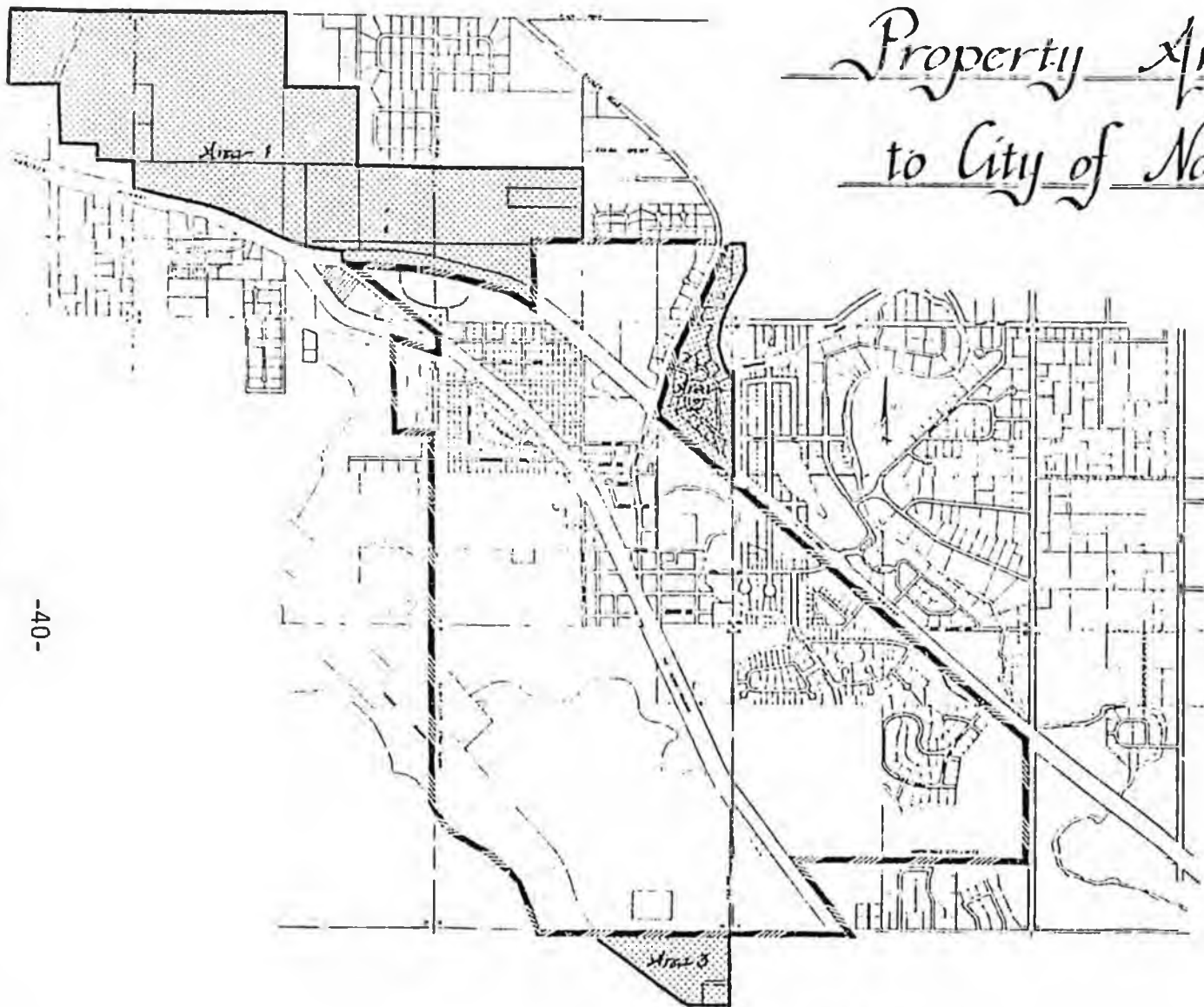
Further, the Commission considered the request by the IEC to omit the five acre parcel owned by IEC in Area #2. The Commission determined that this request should not be granted since the five acres met the same standards as the remainder of Area #2 and that the parcel would be surrounded on three sides by territory within the jurisdiction of the City of North Pole if the petition were amended to exclude the referenced parcel. The referenced parcel would also be geographically separated from territory outside municipal jurisdiction by the Thirtymile Slough.

Further, the Commission finds that the City of North Pole is capable of extending and is willing to extend full municipal services as defined by 19 AAC 10.840(9). As such, annexation pursuant to Section 29.68.010(a) of the Alaska Statutes is deemed the most appropriate procedure for this boundary change.

On the basis of the above findings, the Commission approved without modification the petition for annexation of approximately 1.14 square miles by the City of North Pole.


The Commission hereby respectfully submits its recommendation to the Second Session of the Fourteenth Legislature for the annexation of the territory described in the City of North Pole's petition of June 10, 1985, and shown on the attached map.

Property Annexation to City of North Pole



Existing City Boundary
 Proposed City Boundary

Existing Area 291 sq miles
 Added Area 114 sq miles
 Total Area 405 sq miles

 ROEN DESIGN ASSOCIATES <small>PLANNERS - ARCHITECTS</small> <small>3100 NORTH DRIVE - FORTSMITH ARKANSAS 72901</small>	NAME _____
	PHONE NO. _____
	ADDRESS _____
	DATE _____

City - 546.2332

Phyllis Mercurieff - City Clerk -

all Exec from IRA and TDX out of town - Seattle planning session
she will advise their St Paul offices

X.

RECOMMENDATION FOR THE ANNEXATION OF TERRITORY TO THE CITY OF ST. PAUL

IN THE MATTER OF THE PETITION)
FOR ANNEXATION BY THE CITY OF)
ST. PAUL, ALASKA OF APPROXIMATELY)
194 SQUARE MILES CONSISTING OF)
OTTER ISLAND, WALRUS ISLAND AND)
THE TERRITORY THREE NAUTICAL)
MILES SEAWARD FROM THESE ISLANDS)

*Petitioned for 194 sq miles
193 of water - all approved
1 of land -
Opposed by Aleut
Community (IRA)
Tanadusix Corp*

SUMMARY OF PROPOSED ACTION

On July 11, 1985, the City of St. Paul petitioned the State of Alaska for the annexation of Otter Island, Walrus Island and the territory three nautical (geographical) miles seaward from these islands. The total area of the territory proposed for annexation is approximately 194 square miles, consisting of 193 square miles of water and 1 square mile of land. The annexation was submitted pursuant to Section 29.68.010(a) of the Alaska Statutes (i.e. the process which requires concurrence from the State Legislature).

On November 7, 1985, the Commission held a public hearing on the petition in St. Paul. Chairman Robert Eder and Commissioners Greist, Hanson and Bettisworth participated in the hearing. Testimony was offered by eleven individuals.

The petitioner indicated that the proposed annexation is based upon the following assertions:

That a need exists to enhance the City's tax base by expanding its municipal boundaries seaward so that raw fish tax revenue paid to the State by floating fish processors operating immediately offshore of St. Paul Island may be shared with the City. That a need exists to control the impact upon the Community of development by the fishing and oil exploration enterprises on Walrus and Otter Islands and to control land use and development through planning in a larger area.

During the hearing, the Commission received testimony that the Aleut Community of St. Paul Island (IRA) and the Tanadusix Corporation, the major land holder in the area, oppose the proposed annexation.

The Commission considered briefs opposing the proposed annexation prepared on behalf of the Aleut Community of St. Paul Island and a response to the opposition brief filed by the City of St. Paul. In arriving at its decision, the Commission also considered the Report and Recommendation of the Department of Community and Regional Affairs on the proposed annexation, and an opinion by the Department of Law regarding the determination of the contiguity of Walrus Island in the context

of the proposed annexation. After reviewing the testimony, briefs and other material, the Commission conducted a decisional session on the proposed annexation in Anchorage on December 9, 1985.

FINDINGS OF FACT

In arriving at its findings, documents and evidence considered by the Commission included, but were not limited to, the petition and supporting briefs of the City of St. Paul, the Report and Recommendation of the Department of Community and Regional Affairs, the opposing briefs from the Aleut Community of St. Paul and the Tanadusix Corporation, oral testimony provided at the November 24, 1985 hearing and information provided by Community and Regional Affairs staff after conducting an informational meeting in St. Paul on December 2, 1985. After due consideration, the Commission finds that all three areas proposed for annexation conform to several of the regulatory standards governing annexation. Following its deliberations on this matter, the Local Boundary Commission made the following findings of fact:

1. The City of St. Paul is now working toward diversifying the community's economy by reducing its dependence upon the seal harvesting industry and broadening the economic base of the community. To accomplish this, the City is developing a port facility to promote local development of the bottom fishing industry. St. Paul residents are investing in small boats and fishing off the coast of St. Paul Island. In addition, numerous other fishing boats and floating processors are operating immediately off the coast of St. Paul Island in the area proposed for annexation.
2. The City of St. Paul provides search and rescue operations and related services to the waters contiguous to its current municipal boundaries. However, the City does not have the authority to provide such services extraterritorially. If this territory is annexed, it will allow the City to continue such activity without the present liabilities associated with the lack of municipal jurisdiction. Testimony provided by the petitioner indicated that the City of St. Paul is involved in an average of at least two search and rescue missions per month. Thus the health, welfare or safety of City residents is endangered in the absence of such municipal jurisdiction.
3. The City of St. Paul also provides potable water to the floating processors and fishing boats operating offshore of the Island. As the fishing industry grows in the region, the City of St. Paul will be an increasingly important municipal service. To accommodate anticipated impacts, the City is currently preparing to develop alternative potable water sources.

4. With respect to the capabilities of other municipalities to provide these needed services, the Commission noted that the only other municipality in the area is the City of St. George, which is located approximately 40 miles southeast of St. Paul. This situation is particularly relevant with respect to 19 AAC 10.070(a)(4).
5. Potential development in the territory proposed for annexation warrants the provision of municipal planning authority in the territory. Sufficient evidence exists that there will likely be continued development of both the fisheries industry and offshore oil industry within and adjacent to the area proposed for annexation. Currently, the bottom fishing industry is rapidly expanding in the Pribilof area.
6. In addition to the development of the onshore fish processing industry, there also exists the potential for increased offshore processing. It is reasonable to conclude that the City will both desire and require control over waters contiguous to the existing municipal boundaries since processors impact water quality and utilize certain City services and facilities. Offshore floating processors will likely impact the community by bringing in large numbers of transient workers who, in turn, place a demand on both emergency medical and local law enforcement services.
7. The City of St. Paul is currently a Coastal District established under the Alaska Coastal Management Program (ACMP). Under the ACMP, districts are authorized to develop a coastal management program for their area of jurisdiction. In the case of St. Paul, expansion of its municipal boundaries seaward three nautical (biophysical) miles will extend the City's planning jurisdiction over that territory. Presently, the City only has jurisdiction for coastal management to the shoreline.
8. A portion of the territory proposed for annexation is now part of the Alaska Maritime National Wildlife Refuge and is protected by the Federal government. However, an extension of the City's municipal boundaries to include this area would allow the City to provide coastal management planning to regulate impacts upon the coastal resources contiguous to the Refuge. The Refuge is identified by the Alaska Department of Fish and Game as part of the same coastal biophysical area as St. Paul Island proper.
9. As previously stated, the residents of St. Paul use the waters surrounding the Island for day fisheries operations and subsistence activities. Because there are no U.S. Coast Guard rescue facilities on or near St. Paul Island, the City provides marine rescue services. If the City is to legally provide such services, the marine territory must be within its municipal boundaries. The service will

become even more important with the expansion of outside fishing vessels using the St. Paul naroor as a base of operations.

10. The City will likely require additional revenue to provide basic services in the maritime territory proposed for annexation. If this territory is annexed, the City can collect a share of the raw fish tax revenues currently collected by the State for operations within the territory proposed for annexation.

CONCLUSIONS OF LAW

The annexation of territory described as the three mile nautical perimeter surrounding St. Paul Island, Walrus Island and Otter Island including Walrus Island and Otter Island to the City of St. Paul, as proposed in the petition of the City of St. Paul, sufficiently meets standards for annexation to warrant inclusion within the boundaries of the City of St. Paul.

STATEMENT OF DECISION

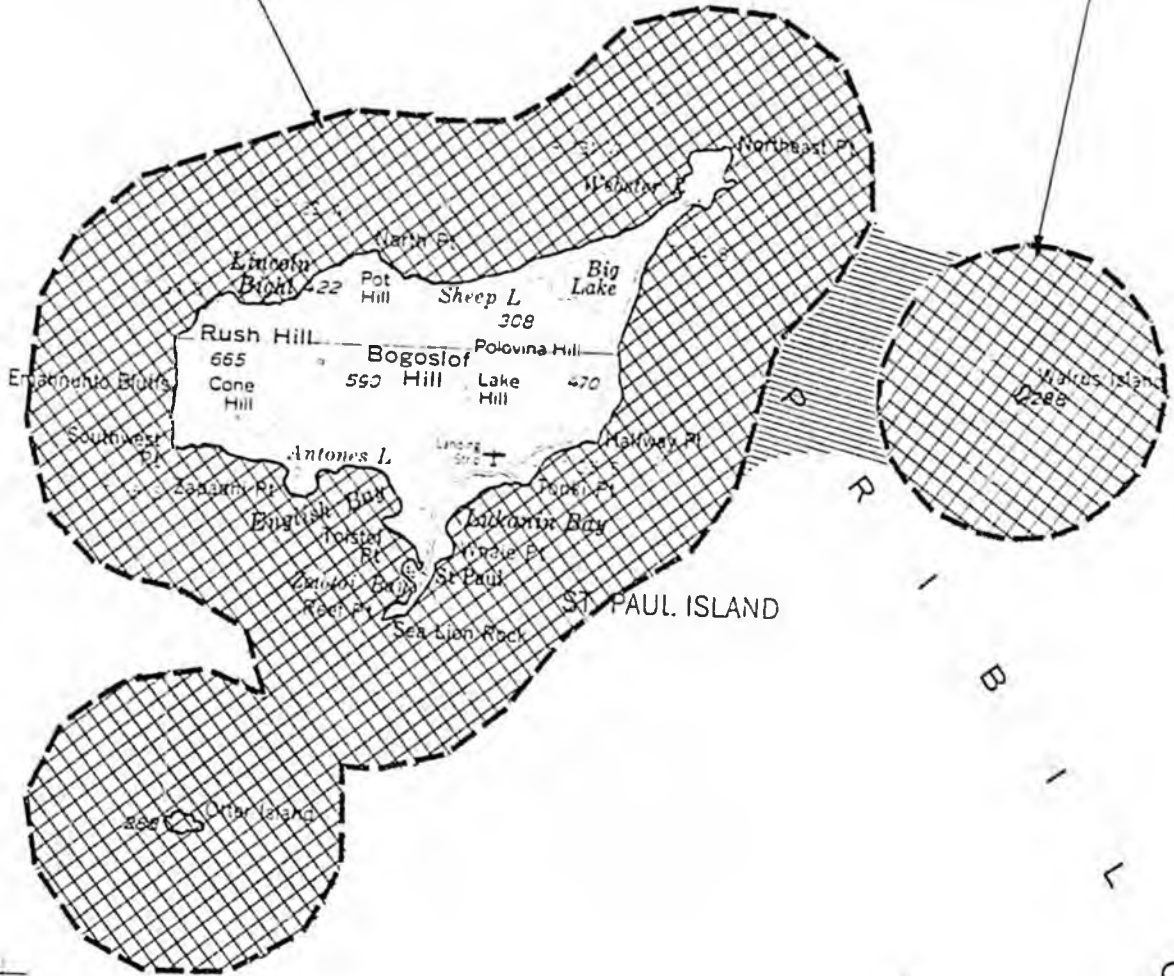
Based upon the Findings of Fact and Conclusions of Law stated above, IT IS ORDERED:

Upon tacit approval by the Second Session of the Fourteenth Legislature under the provisions of Article X Section 12 of the State Constitution, the jurisdictional boundaries of the City of St. Paul shall be as follows:

All of the territory contained within a three nautical (geographical) mile perimeter and lying above the mean low water line surrounding St. Paul Island, Sea Lion Rock, Walrus Island and Otter Island of the Pribilof Group at Latitude 57° 10' N and Longitude 170° 15' W.

The Local Boundary Commission hereby respectfully submits its recommendation to the Second Session of the Fourteenth Legislature for the annexation of the territory included in the above description and shown on the attached map.

PROPOSED ANNEXATION



B E R I N G

*City - Unalaska 581-1251
Nancy Gross - City Manager*

XI. RECOMMENDATION FOR THE ANNEXATION OF TERRITORY TO THE CITY OF UNALASKA

IN THE MATTER OF THE PETITION)
FOR ANNEXATION BY THE CITY OF)
UNALASKA, ALASKA OF)
APPROXIMATELY 1,294 SQUARE MILES,)
CONSISTING OF A PORTION OF)
UNALASKA ISLAND, AMAKNAK ISLAND,)
EGG ISLAND, HOG ISLAND,)
SEDANKA ISLAND AND THE TERRITORY)
THREE NAUTICAL MILES SEAWARD OF)
THESE ISLANDS)

*Petitioned for
1294 sq miles
(60% land) approved
11/89 27 miles
approved by Unalaska Corp
581-1276
Cathy Grimes,*

SUMMARY OF PROPOSED ACTION

On August 21, 1985, the City of Unalaska petitioned for the annexation of approximately 1,294 square miles of territory contiguous to the City and described as Unalaska Island north of Township 76 and the islands of Sedanka, Hog, Egg and Amaknak, including the territory three nautical miles seaward from these islands. On January 4, 1986, the Local Boundary Commission conducted a public hearing in Unalaska on the petition. The petition was submitted pursuant to Section 29.68.010(a) of the Alaska Statutes (i.e. the process which requires concurrence from the Legislature).

The majority of the area proposed for annexation (approximately 60 per cent) is land, the remainder is water. The petitioner asserts that annexation will permit the City to provide needed urban services in an area where growth is anticipated and the City is the only logical entity to provide such services.

The territory is not urban in character. It is largely undeveloped and uninhabited open space and water, with a only four residents, according to the petitioner.

The petitioner asserts that there is a reasonable likelihood that portions of the territory will become further developed in the foreseeable future. This assertion is based upon the City's belief that there is a demand for vacant, developable land to meet the needs of the oil and bottomfish industries. The petitioner also referenced the interest of private sector developers in the commercial geothermal potential of the Makushin Volcano area, which is located in the area proposed for annexation.

During the course of its proceedings, the Commission considered testimony, both written and oral, including that provided by the Unalaska Corporation. The Unalaska Corporation, which is a primary land holder in the area proposed for annexation, contended that much of the territory proposed for annexation is

not in need of municipal services and that the present municipal boundaries of the City of Unalaska contain areas which are suitable for development but not yet developed.

FINDINGS OF FACT

1. Most of the territory proposed for annexation is not platted or held for sale for residential or commercial purposes. The territory proposed for annexation is vast and remote and is largely undeveloped.
2. The population density of the territory proposed for annexation does not approximate that of the territory within the present boundaries of the City of Unalaska. The City's petition indicates that four individuals reside within the 1,294 square miles proposed for annexation. The population density of the territory proposed for annexation is 0.0031 people per square mile. By comparison, 1,922 individuals reside within the present boundaries of the City of Unalaska (which encompass approximately 25.4 square miles). The population density within the City is 75.7 persons per square mile.
3. The population of the territory proposed for annexation does not stem primarily from actual growth of the City beyond its legal boundaries. This is due, in part, to the difficulty in developing the lands outside the major river valleys and relatively accessible bay areas. In addition, a significant portion of the territory proposed for annexation is held by the village Native corporation and is not platted and available for purchase.
4. Portions of the territory proposed for annexation may be valuable by reason of their suitability for prospective urban purposes. Specifically, the land areas around Broad Bay, Wide Bay, Nateekin Bay, the Makushin Valley, and Summers Bay may be suitable for additional rural/low density residential development. In addition, Captains Bay presently harbors processors and oil rigs. It is likely that this activity will continue and even increase in the future.
5. The petitioner has acknowledged that the City of Unalaska does not routinely provide services outside its corporate limits. However, in 1984 the City emergency medical services staff responded to 56 marine calls. According to the City of Unalaska, the majority of these calls were to vessels moored in nearby bays that are outside the City limits. The City normally responds to marine calls by transporting rescue and emergency medical equipment to the harbor tug so City personnel can undertake rescue and emergency fire operations. Much of the demand on the City ambulance and fire services is from offshore seafood processors frequently anchored in Captains Bay and parts of Unalaska Bay.

6. City services, other than those emergency services referenced previously, are not presently provided in the territory proposed for annexation, nor is there any indication that such services are either needed or desired by individuals residing within the territory. The Ounalashka Corporation also expressed concern regarding the need for extension of planning and zoning authority over such a remote territory.
7. Evidence indicates that it is reasonable to expect the City may be called upon to provide emergency services such as fire, ambulance and police to both oil rigs and floating seafood processors moored in the cays and harbor located in the immediate vicinity of the City yet outside the present municipal boundaries.
8. Floating processors are transient but locate primarily in Unalaska Bay, Iliuliuk Bay, and Captains Bay. The Commission found persuasive the petitioner's argument that the City of Unalaska should be empowered to exercise control over these bays since the processors impact water quality, require City services and use City facilities. Offshore floating processors are likely to impact the community by bringing in a transient labor force which places demands on both emergency medical and local law enforcement services.
9. The present land status of the territory proposed to be annexed may inhibit it from being developed immediately. Again, much of the land is owned by the Native Corporation. The corporations have, for the most part, received interim conveyance to their land selections. The Ounalashka Corporation has indicated that it has no immediate plans to open up land for development. Lands owned by the Ounalashka Corporation that are in the immediate vicinity of the existing City, however, would more likely be developed before the more remote areas if the Corporation elects to develop its land. It is unlikely that these more remote areas will be requiring or demanding City services in the near future.
10. The Commission finds that annexing the land area adjacent to Beaver Inlet and Makusnin Bay merely to control processors in these waters is not justified under the guise of "planning authority" alone. The Alaska Coastal Management Program (ACMP) provides the City with an alternative means for planning and regulating land use within the territory proposed for annexation. Under the ACMP, districts are authorized to develop a coastal management program for their area of jurisdiction. Districts include first-class cities such as the City of Unalaska and also Coastal Resource Service Areas.
11. The Commission finds it is inappropriate for a municipal government to annex vast amounts of territory in which

there exists no need or demand for municipal services, except for the possibility of extending planning authority.

12. The petitioner has made no claim that the welfare or safety of residents of Unalaska is endangered by any current or prospective condition in the territory proposed for annexation. However, at the Commission's hearing on January 4, 1986, residents did testify to the need for control of dumping of bilge water and garbage in the bays in proximity to the City. It is reasonable to conclude the City will need to impose some degree of control over this activity in those bays just outside its jurisdiction, such as Captains Bay and Unalaska Bay.
13. The petitioner claims that the potential for the development of geothermal energy resources exists twelve miles west of Unalaska at the base of Mt. Makushin. Available evidence indicates that this resource holds potential for development into a feasible utility that could meet a substantial portion of the community's power requirements. However, a formal feasibility study of the potential development has not yet been completed. Development of this resource would require the creation of a transmission corridor between the source and the community. It is likely that the City will play a role in the development of these energy resources, perhaps in the form of a utility enterprise. However, it would not be necessary for the area containing the geothermal resources to be annexed in order for the City to participate in such development of the resources.

Testimony received by the Commission at its January 4, 1985 hearing indicated that the geothermal project will not be operable for some time. Therefore, if the territory in the vicinity of the Makushin Volcano is not annexed at this time, the City of Unalaska retains the option of developing another petition to annex the Makushin Volcano area at a later date.

14. The petitioner has acknowledged that it does not routinely provide services, other than search and rescue and emergency medical response, on an extraterritorial basis. Considering that only four individuals reside within the vast territory proposed for annexation, it is not reasonable to conclude that these four individuals expect to receive City services. Further, it is questionable whether the City will be able to provide services to the four residents in the territory. Even though all cities generally have the function of providing an array of public services and facilities to the resident population of that City, there is a "threshold population" or minimum population size necessary to provide the demand that justifies that function. It is more likely that the City will provide services to areas just outside the present City limits such as Captains Bay, Broad Bay, Wide Bay, and

the Makushin Valley. Although these areas may be restricted to receiving emergency services for the near future due to the cost of providing such other services as water, sewer, and roads.

CONCLUSIONS OF LAW

1. That the standards established in State Statutes and Administration Regulations are met by part, but not all, of the territory requested in the original petition.
2. The territory immediately adjacent to the present boundaries of the City, the wetland around Nateekin Bay, Tabletop Mountain, a portion of the Makushin Valley and areas in and around Captains Bay and Unalaska Bay meet the standards for annexation to a sufficient degree to warrant inclusion within the boundaries of the City. This territory comprises approximately 189 square miles.

STATEMENT OF DECISION

Based upon the Findings of Fact and Conclusions of Law stated above, IT IS ORDERED:

The annexation of approximately 189 square miles of territory to the City of Unalaska, as described in the amended petition of the City of Unalaska, is hereby approved by the Local Boundary Commission. However, in recognition of the historical and current use of the territory proposed for annexation for subsistence hunting purposes, the Commission recommends or suggests that the City of Unalaska not extend the prohibition on the use of firearms to this area.

That upon tacit approval of the Second Session of the Fourteenth Legislature, in accordance with the provisions of Article X, Section 12 of the State Constitution, the municipal boundaries of the City of Unalaska shall be as follows:

Beginning at the intersection of the west boundary of T71S, R117W, Seward Meridian (S.M.) and the mean high tide line of the Bering Sea; thence south to the protracted NE corner of T72S, R118W, S.M.; thence west to the NW corner of T72S, R118W, S.M.; thence south to the SW corner of T72S, R118W, S.M.; thence east to the NW corner of Section 1, T73S, R119W, S.M.; thence south to the SW corner of Section 13, T73S, R119W, S.M.; thence east to the SE corner of Section 13, T73S, R119W, S.M.; thence south to the SW corner of T73S, R118W, S.M.; thence east to the SE corner of the W1/2 of Section 31, T73S, R117W, S.M.; thence in a northeasterly direction to the SE corner of the W1/2 of Section 35, T72S, R116W, S.M.; thence north to the intersection of the east border of the W1/2 of Section 23, T71S, R116W, S.M.; thence continuing north a distance of 3 nautical miles; thence

west to a point 3 nautical miles north of the intersection of the west boundary of T71S, R117W, S.M.; thence south 3 nautical miles to the point of beginning.

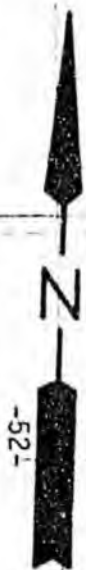
Containing 115.84 Sq. miles of land, more or less, and 98.56 sq. miles of water, more or less for a total combined area of 214.4 sq. miles, more or less.

The Local Boundary Commission hereby respectfully submits its recommendation to the Second Session of the Fourteenth Legislature for the annexation of the territory included in the above description and shown on the attached map.

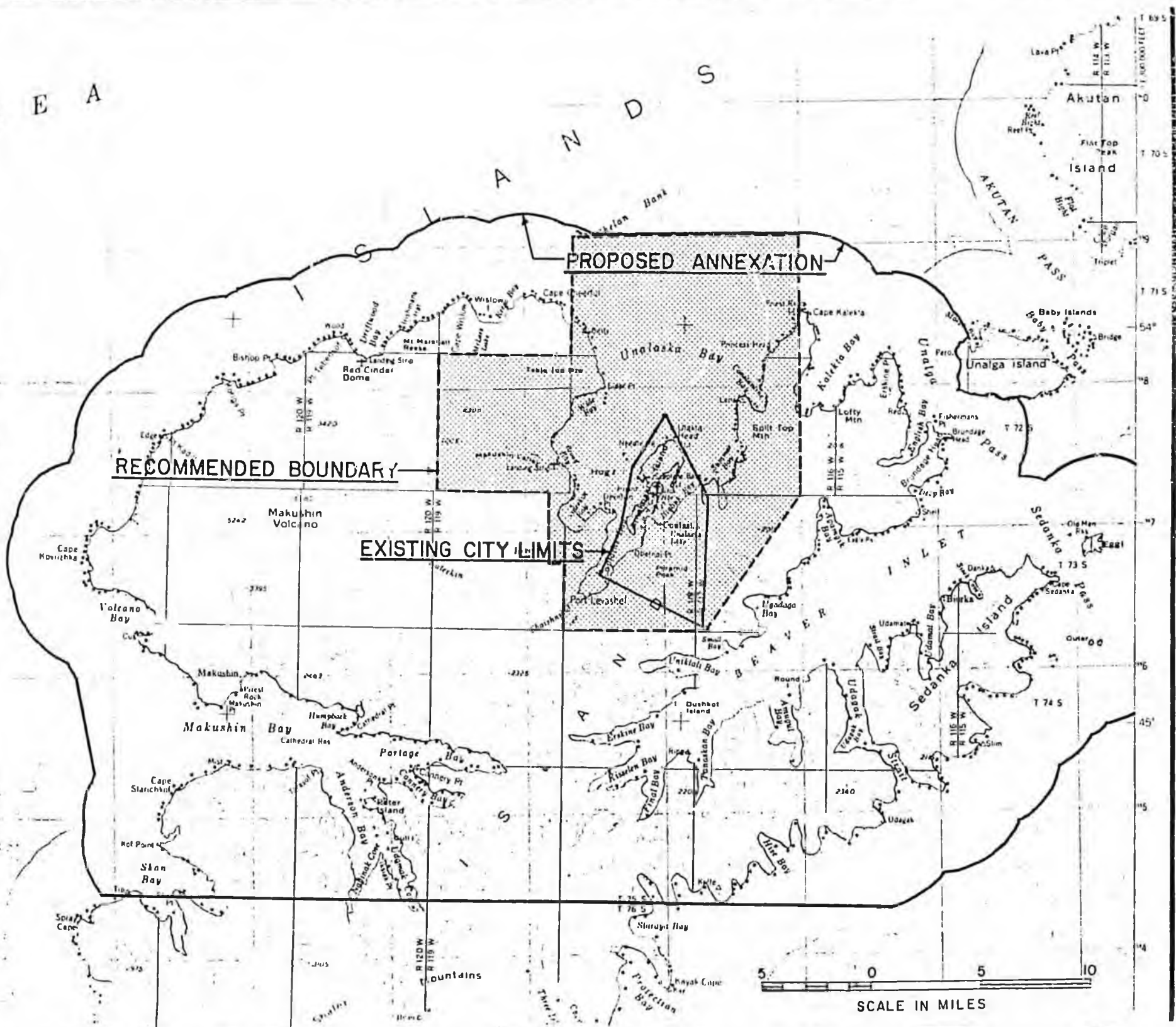
S E A

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PROPOSED ANNEXATION

RECOMMENDED BOUNDARY

EXISTING CITY LIMITS



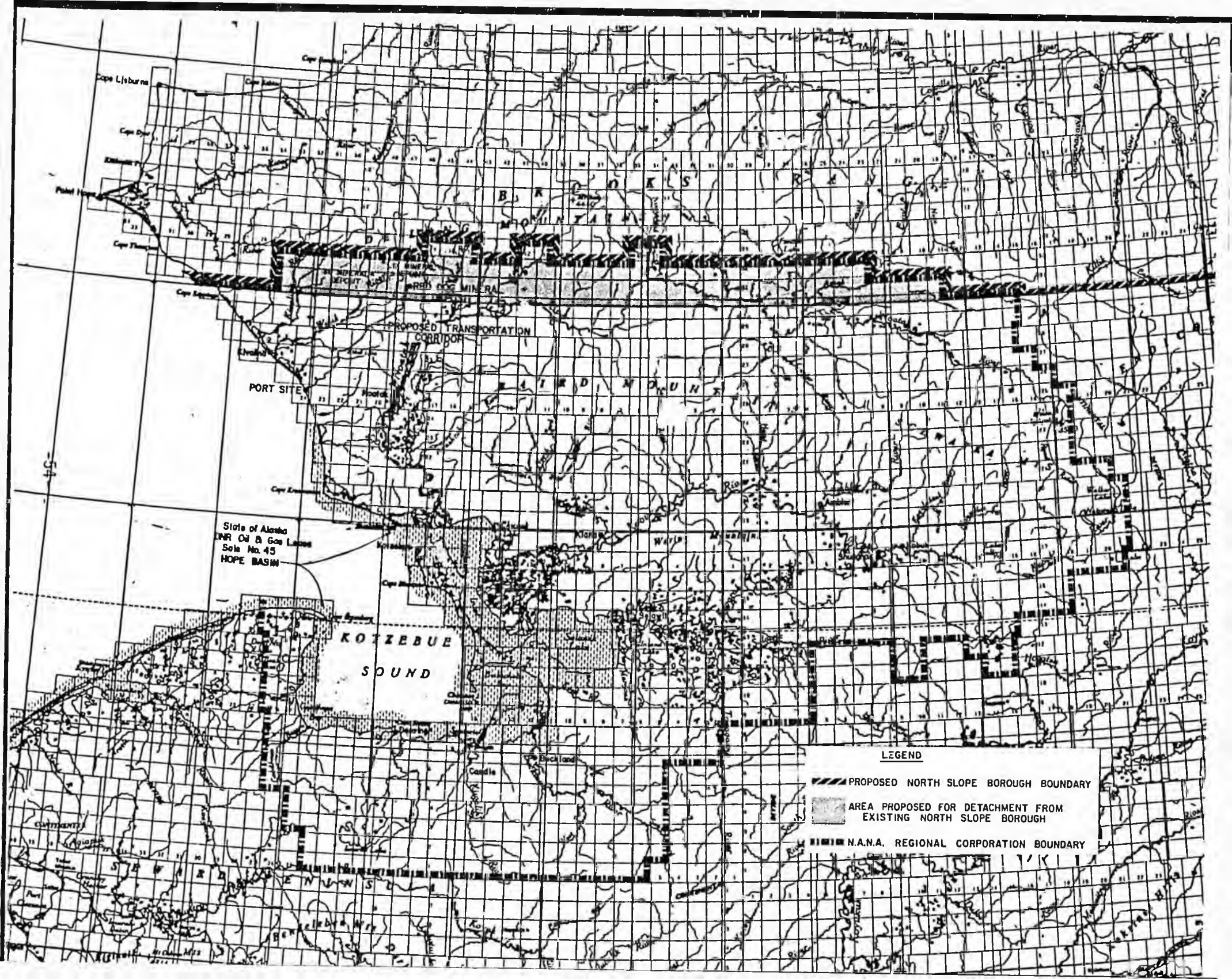
SCALE IN MILES

XII. RECOMMENDATION FOR THE DETACHMENT OF TERRITORY FROM THE
NORTH SLOPE BOROUGH

IN RE:)
THE DETACHMENT FROM THE NORTH)
SLOPE BOROUGH OF TERRITORY)
WITHIN AND ADJACENT TO THE)
NANA REGION)

Included in this Report and incorporated in this recommendation by reference is a copy of the Commission's formal Statement of Decision regarding the detachment of territory from the North Slope Borough, along with the Appendixes to that Statement of Decision which consist of a written summary of the Commission's evaluation of each of the 15 factors considered in this matter (labeled as "Appendix A") and a transcript of that portion of the Commission's decisional session when those factors were evaluated and the conclusions of the Commission were made (labeled as "Appendix B"). Because of the voluminous nature of this material it is included in the back of this Report as Section XIV, the Appendix.

The Local Boundary Commission hereby respectfully submits its recommendation to the Second Session of the Fourteenth Legislature for the detachment of the territory from the North Slope Borough which is described in the November 22, 1965 Petition of the Commissioner of the Department of Community and Regional Affairs and which is shown on the attached map.



State of Alaska
Oil & Gas Lease
Sale No. 45
HOPE BASIN

KOTZEBUE
SOUND

PROPOSED TRANSPORTATION
CORRIDOR

BROOKS RANGE
LINDEROTH MOUNTAINS

LEGEND

▨ PROPOSED NORTH SLOPE BOROUGH BOUNDARY

▨ AREA PROPOSED FOR DETACHMENT FROM
EXISTING NORTH SLOPE BOROUGH

▨ N.A.N.A. REGIONAL CORPORATION BOUNDARY

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E N W S

XIII. ISSUES TO BE BROUGHT TO THE ATTENTION OF THE LEGISLATURE

There are two issues which the Local Boundary Commission wishes to bring to the attention of the Legislature. The first relates to the desire of certain residents of the State to dissolve their municipal governments in favor of Native governments. The second issue concerns the impacts of the Federal Voting Rights Act upon the State and its political subdivisions on matters relating to Local Boundary Commission proceedings.

Dissolution of Municipal Governments

As was discussed in Section III of this Report, last year the Local Boundary Commission denied a petition of residents of the City of Akiachak for the dissolution of their municipal government. It has been reported that residents of a number of other communities are also contemplating attempts to dissolve their municipal governments.

While the Commission denied the petition for dissolution of the City of Akiachak, it was sympathetic to the desire of the residents of Akiachak for self-determination in that matter. It was amply demonstrated to the Commission that dissolution of the City of Akiachak and the vesting of all local government powers in the Akiachak IRA Council was strongly desired by many of the residents of the community.

The petition was denied simply because the present structure of State law concerning this matter would not permit the dissolution of the City under the current circumstances. The Commission suspects that residents of Akiachak may now simply ignore their municipal government.

The Commission believes that this circumstance poses several significant public policy questions which encompass matters which are far beyond the responsibilities of the Local Boundary Commission. The Commission does not advocate any particular position in this matter, rather it believes that the matter should be considered carefully by the Governor and the Legislature.

Policy questions relating to this matter include the following:

- ° impacts of dissolution on both the State and the community;
- ° equitable delivery of public services to unincorporated communities;
- ° civil rights of citizens of Alaska;
- ° distribution of assets and liabilities of a municipal government in the event of dissolution; and
- ° standards and procedures for dissolution.

Federal Voting Rights Act

The impact of the Federal Voting Rights Act upon matters brought before the Local Boundary Commission is of particular

concern to the Commission, to municipalities proposing boundary changes and petitioners for municipal incorporation. The Federal Voting Rights Act requires that any change which affects or has the potential to affect voting rights must be precleared by the U.S. Department of Justice. The ramifications of this requirement, as it relates to matters concerning the Local Boundary Commission, are significant. Under provisions of the Act, any and all municipal incorporations, dissolutions, boundary changes, mergers and consolidations are subject to preclearance. Some of the matters requiring preclearance might not be immediately identifiable as affecting voting rights, such as the annexation of uninhabited territory contiguous to a municipality.

The Act provides that the Department of Justice has 60 days after receipt of a request for preclearance to object to the proposed change. Significantly, during the 60-day period, the change may not be enforced. It is also not uncommon for the Department of Justice to notify a submitting authority on or near the 60th day subsequent to receipt of a request for preclearance that additional information is required to enable the Department of Justice to make a final determination whether to grant preclearance. This is especially likely in the case of major changes such as controversial annexations or municipal incorporations. If the Department of Justice requests additional information, or if the petitioning municipality submits supplemental information, a new 60-day review period begins on the day the Department of Justice receives the information.

Adherence to the requirements of the Voting Rights Act can thus place extreme demands upon municipalities and others proposing virtually any action properly brought before the Commission. The Commission makes no specific recommendations to the Legislature in this regard, but has determined that the Legislature should be aware of the issue.

XIV. APPENDIX

LOCAL BOUNDARY COMMISSION

STATE OF ALASKA

IN RE:)
THE DETACHMENT FROM THE NORTH)
SLOPE BOROUGH OF TERRITORY)
WITHIN AND ADJACENT TO THE)
NANA REGION)
_____)

STATEMENT OF DECISION IN RESPONSE TO
PETITION FOR LOCAL GOVERNMENT BOUNDARY CHANGE

BY THE COMMISSION:

I. PROCEDURAL MATTERS

AS 44.47.567 mandates that the Local Boundary Commission "shall . . . consider a local government boundary change requested of it by . . . the commissioner of community and regional affairs. . . ." AS 44.47.567(a)(3). The statute empowers the Commission to "conduct meetings and hearings to consider local government boundary changes and other matters related to local government boundary changes. . ." and to "present to the legislature during the first 10 days of a regular session proposed local government boundary changes. . . ." AS 44.47.567(b)(1) and (2).

AS 44.47.583 provides that when a local government boundary change is proposed to the legislature during the first 10 days of any regular session, the change becomes effective 45 days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house.

On November 22, 1985, the Commissioner of the Alaska

Department of Community and Regional Affairs (the Petitioner) filed a Petition under 19 AAC 10.470(a)(4), seeking detachment of a specified territory from the North Slope Borough. The territory in question lies along the southwestern boundary of the North Slope Borough and substantially overlaps the northern boundary of the Northwest Alaska Native Association (NANA) Regional Corporation. Subsection 470(a)(4) expressly authorizes the Commissioner to initiate such a petition.

The procedures for boundary changes requiring legislative review are set forth in Article 13 of the Commission's regulations. 19 AAC 10.450 -- 19 AAC 10.620. For the reasons set forth below, the Commission is satisfied that its procedures have been complied with and that a complete and adequate record has been developed to support a decision in response to this petition.

Sections 480, 490, and 500 specify the form and contents of the petition and the materials which must accompany it. Section 480(b)(1) -- (10) itemizes the basic information which must be adduced regarding the territory in question:

(b) The petition shall contain the following information about the territory:

(1) the name and residence address or mailing address of each petitioner;

(2) the name, telephone number, and mailing address of the representative designated by the petitioner to receive service, notice, and other correspondence relating to the proceedings on behalf of the petitioner;

(3) a legal boundary description;

(4) a legal description of the boundaries of the municipality should the boundary change be effected;

(5) the assessed or estimated value of taxable property, giving separate totals for real and personal property;

(6) the number of residents in the territory;

(7) the rate or rates at which real and personal property are taxed;

(8) the rate or rates of sales and use taxes levied and collected;

(9) the amount and a full explanation of the outstanding bonded indebtedness for which the territory is wholly or partially responsible;

(10) the population and area of the municipality affected by the proposed boundary change.

Based upon its examination of the petition, the Commission determines that each required element of information has been supplied.

Section 490(a)(1) -- (5) itemizes five categories of exhibits which shall be appended to the petition:

(a) The petitioner shall append to the petition the following exhibits:

(1) a map or maps showing

(A) the present boundaries of the municipality whose boundaries are to be changed and the boundaries of the municipality if the proposed boundary change becomes effective; and

(B) sufficient detail to define the streets and roadways of the municipality;

(2) an affidavit of the petitioner, or

his representative who prepared the petition, indicating the source from which the information contained in the petition was acquired and stating that a census or other reliable enumeration of the territory was conducted by him or under his direct supervision, specifying the dates when the census or enumeration was begun and completed and verifying that it was taken accurately;

(3) a copy of the agreements, if any, entered into with another municipality regarding the transitional provision of services and distribution of assets and liabilities;

(4) a certified copy of the resolution or ordinance authorizing the municipality to file the petition if the petitioner is a municipality;

(5) the affidavit of the petitioner or his representative that service of the petition has been made in compliance with 19 AAC 10.510.

Inasmuch as the Petitioner is the Commissioner and not a municipality, the Commission determines that items 490(a)(3) and (4) are not applicable. Accordingly, the Commission waives compliance with these two requirements. 19 AAC 10.590. Based upon its examination of the exhibits accompanying the petition, the Commission determines that each of the remaining required exhibits has been supplied.

Section 500 states that the petition must be accompanied by a written brief setting forth the reasons supporting the boundary change and demonstrating that the change meets the applicable standards for detachment. Based upon its review of Petitioner's Brief filed with the Petition, the Commission determines that this requirement has also been satisfied. See 19 AAC 10.520.

Section 510 provides that the Petitioner shall, by certified mail, serve a copy of the petition, exhibits, and brief upon every municipality in or adjoining the territory. In addition, the Petitioner shall arrange to have these materials available for public inspection at a designated place in or near the territory. The territory in question is not inhabited. Consequently it would not be possible to effect service upon municipalities "in or adjoining the territory."

Actual notice of the petition materials has been given to the North Slope Borough (NSB) and to the Northwest Alaska Native Association Regional Corporation (NANA), the two entities (see 19 AAC 10.550(a)) most proximate to the territory. As discussed more fully in the body of this decision, both NSB and NANA have actively participated before the Commission in this proceeding. Furthermore, numerous public hearings have been convened and extensive public testimony taken from residents of both NSB and NANA. Based on these facts, the Commission determines that the service requirements of 19 AAC 10.510(a) and (b) have been substantially complied with. To the extent that strict, technical compliance with sec. 510 may not have been effectuated, the Commission determines that substantial rights of interested parties have not been prejudiced and notes that no party has raised an objection. Accordingly, any defects in service are waived. 19 AAC 10.590.

Section 530 obligates the Petitioner to cause notice of the filing of the petition to be published in a newspaper of

general circulation in the territory in the form specified by the Commission. 19 AAC 10.530(a). The Petitioner shall furnish proof of compliance with the notice requirement. 19 AAC 10.530(b). The Petitioner has submitted publishers' affidavits from the Anchorage Daily News, the Alaska Administrative Journal, and the Tundra Times. Based upon these publishers' affidavits, the Commission determines that the notice requirement has been satisfied.

Section 540 provides for the Commission to establish a time and place for a hearing concerning the proposed boundary change "which shall be held in or near the territory." 19 AAC 10.540, first sentence. Compare AS 44.47.581. Hearings on the petition were held in Anchorage, Noatak, Kotzebue, Point Hope and Barrow on January 8, 9, and 10. The Commission also received testimony by teleconference from residents of other villages in the NANA region and the North Slope Borough at Kotzebue and Barrow, respectively. In light of these extensive hearings in the two areas which geographically overlap the territory in question, the Commission determines that the hearing requirement has been satisfied.

Section 550 accommodates the right of a person or entity residing or owning property in the territory or the governing body of a municipality affected by a proposed boundary change to file an "answering brief" in opposition to the change. On December 18, 1985, the NSB filed its Brief in Opposition, which has been duly accepted and considered by the Commission.

Section 560 invites the Petitioner to file a brief in reply to any new matter raised in an answering brief filed under sec. 550. On December 23, 1985, the Petitioner filed his brief replying to the NSB brief.

Two other briefs have been filed with the Commission by NANA. The first, submitted on December 18, 1985, supported the petition. The second, submitted on December 23, 1985, responded to NSB's answering brief. Nothing in the Commission's regulations expressly authorizes or prohibits interested persons from filing briefs supporting a petition or replying to an answering brief. Inasmuch as the clear purpose of AS 44.47.581, which mandates hearings "in or near the vicinity of the area affected by the change," is to allow interested persons and entities to place their views on the record before the Commission, the Commission sees no reason to disallow or ignore NANA's briefs. Accordingly, the NANA briefs have been incorporated into the record for the purpose of assisting the Commission in rendering an informed and responsive decision.

Section 570 obligates the Department of Community and Regional Affairs to prepare and file a report with the Commission prior to the hearing summarizing the issues raised in the petition and briefs and containing recommendations to the Commission. Inasmuch as the Commissioner of Community and Regional Affairs was the petitioner in this proceeding, to avoid any appearance of impropriety or conflict of interest, he unconditionally delegated to the State of Alaska Office of Management and Budget (OMB) the

responsibility for acting as staff to the Commission with respect to the instant petition. On January 3, 1986, OMB filed with the Commission the report required by sec. 570. It should go without saying that this report is merely advisory to the Commission, and has in no way bound, qualified or prejudiced our decision.

There can be little doubt that this is the most important boundary matter to be presented to the Commission in the last decade. Therefore, the Commissioners have individually examined, reviewed, analyzed, and reflected on the record so that they may bring their most informed, best judgment to bear on this crucial decision. As a result of these extensive individual efforts, the Commission has placed relatively little reliance on the sec. 570 staff report prepared by OMB contrasted with the more substantial reliance we would place upon the staff report in a more routine matter.

Section 580 specifies that the Commission's public hearing and decisional meeting concerning a proposed boundary change will be conducted in the manner set forth in 19 AAC 10.420 -- 19 AAC 10.430. The tapes and transcripts of the public hearings of January 8, 9, and 10 confirm that sec. 420 governed the conduct of those hearings.

On January 11, 1986, the Commission convened its initial decisional meeting at Fairbanks. Given the size of the record and the importance and complexity of the issues presented, it was not possible for the Commission to render a decision at that time. Accordingly, on January 18 and 19, 1986, the

Commission reconvened its decisional meeting at Juneau, Alaska, within 90 days of the public hearings, as required by 19 AAC 10.430(a). During this decisional meeting, the Commission has examined all aspects of the written and oral testimony before it, has considered other relevant and reliable information available to it, and herewith enters its decision.

II. THE DETACHMENT AREA

The area that is the subject of this petition (the detachment area) is all land within the boundaries of the NANA Region that lies north of the southwestern boundary of the Borough, plus the adjacent submerged lands seaward to a distance of three nautical miles. The detachment area extends from the Chukchi Sea on the west to the Gates of the Arctic National Park on the east. It contains approximately 3,298 square miles (2.1 million acres).

The detachment area is generally bounded by the Delong Mountain Range on the west, north and northeast, and by the Howard Hills on the east, forming a natural bowl emptying into the Kotzebue basin. Seven major river systems flow across the area either into the Chukchi Sea or into the Noatak River which meanders through the southern reaches of the detachment area. These rivers are the Kivalina, Wulik, Kelly, Kugururok, Nimiuktuk, Anisak and Aniuk. The detachment area is uninhabited.

III. FACTORS

Pursuant to 19 AAC 10.230(a), the Commission must make determinations with respect to the best interest standards set forth in that section after considering appropriate pertinent

factors. The regulation requires the Commission to consider three specific factors, and it reserves the authority for the Commission to consider other factors which the Commission determines to be pertinent.

In accordance with the Commission's directions, counsel to the Commission identified a total of fifteen factors which had been suggested in the briefs filed by the petitioner, the respondent North Slope Borough, NANA; in the staff report filed with the Commission pursuant to 19 AAC 10.570; and in the public hearings.

For each proposed consideration, the staff prepared a summary sheet setting forth the pertinent pages in the various briefs filed with the Commission in which each proposed consideration was addressed. The fifteen summary sheets are attached to this decision as Appendix A and are incorporated herein. The Commission determined it would consider fourteen of the fifteen proposed factors. The Commission rejected Factor 14 (equitable distribution of resources), which was suggested in the staff report, because it was not addressed by any of the entities who filed briefs and because it could be used to support detachments that might harm an existing borough in the name of equitable resource redistribution.

The Commission then carefully considered each factor on the record with reference to the briefs and all the written and oral material in the record. The findings and conclusions of the Commission with regard to the fourteen factors considered are

contained in the taped transcript of the Commission's proceedings of January 18, 1986. Synopses of these findings and conclusions are set forth in the section captioned "SUMMARY" on the Appendix A sheets pertinent to each factor. Those portions of the transcript reflecting the Commission's specific consideration of each of the fourteen factors are hereby incorporated into this decision. Staff to the Commission is directed to expeditiously prepare a written transcript of those deliberations and attach them as Appendix B to this Decision.

IV. BEST INTEREST STANDARDS

As noted above, following the Commission's consideration of the fourteen factors described above, the staff prepared a summary of the findings and conclusions of the Commission with respect to each of the fourteen factors. These summaries are contained in Appendix A at the bottom of the page pertaining to each of the factors considered.

After reviewing these summaries, the Commission proceeded to apply best interest standards in light of its findings and conclusions with respect to these fourteen factors.

a. Best Interests of the State. The Commission finds and concludes that the proposed detachment would be in the best interests of the state. Specifically, the Commission finds and concludes that the factors of practicality, efficiency, promotion of local self-government, and self-determination of the people who use the territory and who will be most directly affected by its imminent development all weigh heavily in favor of the

detachment. The Commission also finds and concludes that the factors of protecting subsistence resources and perfection of boundaries lends additional, albeit minor, support to this determination.

b. Best Interests of the Territory to be Detached.

The Commission finds and concludes that the proposed detachment would be in the best interests of the territory to be detached. Specifically, the Commission finds and concludes that the factors of practicality, efficiency, promotion of local self-government, and facilitating control over development and management of social and economic change by the people most affected thereby weigh heavily in favor of the detachment. The Commission also finds and concludes that the factors of protecting subsistence resources and perfection of boundaries lends additional, if minor, support to this determination.

c. Best Interests of the North Slope Borough. The Commission is unable to find that the detachment would be in the best interests of the North Slope Borough. Conversely, the Commission is also unable to find that the detachment would necessarily be significantly adverse to the best interests of the North Slope Borough. The voice of the North Slope Borough people expressed by their votes, their testimony and their petition all register strong and eloquent opposition to the detachment. However, the loss of a small portion of the tax base may be substantially if not totally neutralized by the avoided costs of being relieved from the obligation to provide extensive services in and

to the detached territory.

The Commission is satisfied that if the detachment is adverse to the best interests of the North Slope Borough, then at worst it is just barely so. Any injury which the borough may suffer would be barely a flesh wound. Under no circumstances will the borough suffer a loss of limb.

d. The Best Interests Determination. There is not a clear showing that the best interests of each of the three pertinent entities -- the state, the territory which would be detached, and the North Slope Borough -- would be advanced by the detachment. However, there is no doubt that, overall, the best interests of the public as a whole would be served by this proposed detachment. Given this result, the Commission must determine whether or not 19 AAC 10.230(a) precludes the detachment because each individual best interest is not served or whether this regulation can be interpreted in a manner that the overall best interests of the public can be served.

Based upon the advice provided us concerning the Constitutional purpose for which the Local Boundary Commission was established -- namely that well-intentioned, parochial, local interests should not frustrate the overall public interests in the establishment of local government boundaries -- we conclude that 19 AAC 10.230(a) should be interpreted to permit a detachment where the overall public interests would best be served by the detachment.

Accordingly, the Commission finds and concludes that

its regulation, 19 AAC 10.230(a), requires that the overall best interests of the public must be determined. Further, the Commission finds and concludes that the proposed detachment is in the overall best interests of the public.

V. DISTRIBUTION OF ASSETS AND LIABILITIES

Pursuant to 19 AAC 10.250(b), the Commission is required to determine the manner in which the assets and liabilities of the North Slope Borough are to be distributed between the North Slope Borough and the State of Alaska (or derivative of the proposed Northwest Arctic Borough).

Because there are no public facilities financed by the North Slope Borough within the detached area, because the proportion of the North Slope Borough's tax base in the detached area is de minimus, and because the Borough's credit worthiness is clearly based upon the other portions of its tax base, the Commission determines that no assets and no liabilities shall be distributed to the state pursuant to 19 AAC 10.250(b).

VI. ORDER

Based upon the findings and conclusions set forth in this decision, IT IS ORDERED:

1. The detachment from the North Slope Borough of the area described in the petition of the Commissioner of Community and Regional Affairs is approved. This approval is conditioned upon voter approval of the incorporation of a borough containing the territory generally within the boundaries of the NANA region, including the area detached from the North Slope Borough in this

proceeding.

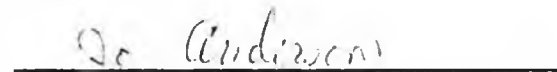
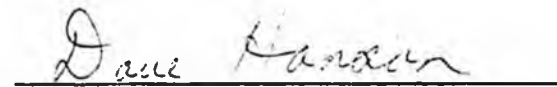
2. There shall be no distribution of assets or liabilities from the North Slope Borough to the State of Alaska in connection with this detachment.

DATED this 19th day of January, 1986.

LOCAL BOUNDARY COMMISSION



Charles Bettisworth
Acting Chairman


Jo Anderson
Dave Hanson

APPENDIX A

FACTOR

1. Are the social, cultural and economic characteristics of the population of the territory proposed to be detached substantially different or in conflict with those of the remainder of the population located in the detaching borough?

Subissues

Source in This Proceeding

19 AAC 10.230(a)(1)

Proposed Interpretation or Definition

"Population" is interpreted to mean the people who use the uninhabited territory.

Addressed by Petitioner

-- Brief in Support of Petition..... pp. 21-24

-- Reply to North Slope Borough Brief in Opposition..... pp. 7-12

Respondent North Slope Borough Brief in Opposition.. pp. 30-33,
52

NANA Briefs

-- Comments Supporting Petition..... pp. 2-3

-- Comments in Reply to Brief in Opposition... p. 12

Pertinent Facts Summary

The people who use the proposed detached territory are mainly from Kivalina and Noatak. People from Point Hope also make use of the territory, although to a significantly lesser extent.

The work force for the proposed Red Dog Mine development will tend to reflect this usage pattern. Approximately eighty percent (80%) of the local Alaskan component of the work force will be from the NANA region.

There are some distinct cultural and social differences between the people from the NANA region and the people from the North Slope Borough.

The entire proceeding demonstrates a potential for the development of conflicts between NANA and NSB people. The fact of this potential conflict is inconclusive on the resolution of the best interest determinations the Commission must make.

FACTOR

2. Does the geographic location or configuration of the territory proposed to be detached preclude the provision of borough services provided other areas of the detaching borough or make the provision of borough services impractical?

Subissues

Source in This Proceeding

19 AAC 10.230(a)(2)

Proposed Interpretation or Definition

"Impractical" is interpreted to mean unwise or imprudent to put into effect. This factor is interpreted to favor detachment if the provision of borough services is either precluded or unwise or imprudent to effectuate.

Addressed by Petitioner

- Brief in Support of Petition..... pp. 24-27
(along w/Factor 3)
- Reply to North Slope Borough Brief in Opposition..... pp. 12-13
(along w/Factor 3)

Respondent North Slope Borough Brief in Opposition.. pp. 34-35

NANA Briefs

- Comments Supporting Petition..... pp. 1, 6
- Comments in Reply to Brief in Opposition.... None

Pertinent Facts Summary

The proposed detachment territory is separated from the rest of the NSB by the Brooks Range. It is physically located a long way from Barrow. It is physically located much closer to Kivalina, Noatak, and Kotzebue.

State and federal governmental services presently provided to the area of the proposed detachment territory tend to come principally from Kotzebue, northward. However, some services are being delivered from the NSB.

The geography of the Brooks Range and the great distance from Barrow do not preclude the provision of borough services from the NSB. Based on the evidence before it, the Commission finds it impractical to serve the proposed detached territory from Barrow relative to service from Kotzebue. The provision of extensive state and federal services to the detached territory is presumably based on efficiency and economy considerations. The record reflects no real debate that it is more efficient to serve the territory from Kotzebue rather than from Barrow. The NSB's arguments on practicability are unpersuasive in light of the record as a whole.

FACTOR

3. Does the lack of transportation facilities preclude the communication and exchange necessary for responsive and integrated local government?

Subissues

Source in This Proceeding

19 AAC 10.230(a)(3)

Proposed Interpretation or Definition

"Responsive" is interpreted to mean quick to react, sympathetic to immediate needs. "Integrated" is interpreted to mean taken all together, taken as a whole.

Addressed by Petitioner

- Brief in Support of Petition..... pp. 24-27
(along w/Factor 2)
- Reply to North Slope Borough Brief in Opposition..... pp. 12-13
(along w/Factor 2)

Respondent North Slope Borough Brief in Opposition.. pp. 35-36

NANA Briefs

- Comments Supporting Petition..... p. 6
- Comments in Reply to Brief in Opposition.. . None

Pertinent Facts Summary

There is presently air service into the proposed detachment territory. The territory is no further from Barrow than some other areas that are presently being adequately served by the NSB. In contrast with its "practicability" findings under Factor 2, the Commission does not find a "preclusion" under Factor 3.

However, since the people who use the territory are outside the NSB boundaries, they are not integrated into the NSB as a whole.

FACTOR

4. Will the proposed detachment maximize or promote local self-government?

Subissues

Source in This Proceeding

Petitioner's Brief in Support of Petition

Proposed Interpretation or Definition

The Commission observes that this factor derives from Article X of the State Constitution. The constitutional history stresses the need for objective analysis at the statewide level for boundary-setting determinations.

The Commission interprets "local self-government to include the viability of a Northwest Arctic Borough."

Addressed by Petitioner

- Brief in Support of Petition..... pp. 14-18
29-30
- Reply to North Slope Borough Brief in Opposition..... None

Respondent North Slope Borough Brief in Opposition.. pp. 39-40,
45

NANA Briefs

- Comments Supporting Petition..... pp. 3-4
- Comments in Reply to Brief in Opposition.... pp. 4-6

Pertinent Facts Summary

The Commission believes that the key questions pertinent to this factor are:

(1) Is detachment necessary for a Northwest Arctic Borough (NWAB) centered in Kotzebue?

(2) How would detachment affect the self-government of the NSB?

(3) How would detachment affect borough government across the state in general?

These latter two subissues are considered more fully under factors 7 and 8.

The Commission finds that detachment is necessary for the viability of a NWAB. As Revenue Commissioner Nordale's letter of November 19, 1985 makes clear, without the Red Dog development, the NWAB would have a smaller tax base than Haines. Conversely, the NWAB would find it more expensive to provide services than it is in Haines, and it is probable that more services would be needed there than are needed/provided in Haines.

The Commission observes preamble language in the NSB Resolution of August 26, 1985 to the effect that the proposed detachment territory is "critical" to the economic viability of a NWAB. Based on this language, the Commission believes that the NSB is in conceptual agreement with this Commission finding.

The NSB's arguments about alternative tax bases for the NWAB, as for example the Port and the road, do not support a finding that the NWAB would be viable without the proposed detachment. The Commission's staff reports that under the proposed AIDA financing, payments in lieu of taxation (PILOT) have never been discussed and are not presently contemplated. Only user fees have been discussed between Cominco and NANA. State payments to the NANA Regional Corporation will be for gravel and right-of-way.

Finally, if the NWAB were to depend for "in lieu of tax" payments upon the road while the NSB continued to tax the mine site itself, the enterprise would have to carry the full weight of the taxation of both boroughs. It is at least possible that this would make the mine uneconomic and hence there would be no tax base at all.

The Commission finds that detachment will maximize local self-government for the people of Noatak and Kivalina who are the users of the territory and whose watershed will be most impacted by the Red Dog development. The Commission further finds that the self-determination interests of Noatak, Kivalina and Kotzebue outweigh the self-determination interests of Barrow and the NSB in this context.

Considering the record as a whole, the Commission finds that the factor of promoting or maximizing local self-government favors the detachment.

FACTOR

5. Will the proposed detachment facilitate resource development in Northwest Alaska?

Subissues

Source in This Proceeding

Petitioner's Brief in Support of Petition

Proposed Interpretation or Definition

Addressed by Petitioner

- Brief in Support of Petition..... pp. 30-31
- Reply to North Slope Borough Brief in Opposition..... None

Respondent North Slope Borough Brief in Opposition.. pp. 44-45, 52

NANA Briefs

- Comments Supporting Petition..... pp. 5-6
- Comments in Reply to Brief in Opposition.... pp. 12-13

Pertinent Facts Summary

The Commission finds no substantial evidence of record to support the proposition that the Red Dog development depends upon or requires detachment.

The Commission believes that resource development will occur whether or not detachment is approved. Detachment might tend to "facilitate" this development as a convenience factor.

In light of the record as a whole, the Commission believes this factor is inconclusive as to the required best interest determinations.

FACTOR

6. Will the proposed detachment encourage efficiency in the provision of local government services to the proposed detached territory?

Subissues

Source in This Proceeding

Petitioner's Brief in Support of Petition (Note this Factor largely follows 19 AAC 10.190(a)(3))

Proposed Interpretation or Definition

Addressed by Petitioner

-- Brief in Support of Petition..... pp. 31-32

-- Reply to North Slope Borough Brief in
Opposit. pp. 16-18

Respondent North Slope Borough Brief in Opposition. NOT DIRECTLY*
[But see pp. 34-37, 45-46, and 52]

NANA Briefs

-- Comments Supporting Petition..... pp. 6-7

-- Comments in Reply to Brief in Opposition.... pp. 4-5

Pertinent Facts Summary

As discussed above under Factor 2, numerous considerations of efficiency favor the detachment. Based on the record as a whole, the evidence on efficiency is overwhelming in favor of the detachment.

The only counterbalance is the transition argument raised by NSB and considered under Factor 15. However, the Commission's judgment is that this is a short-term, transitory consideration which is vastly outweighed by long-term efficiency considerations.

* This issue was addressed by the North Slope Borough as a legal issue at pp. 4-7 of a Memorandum of Law filed with the Commission in Barrow on January 10, 1986.

FACTOR

7. Will the proposed detachment adversely affect the present and future finances of the North Slope Borough?

Subissues

Source in This Proceeding

Petitioner's Brief in Support of Petition

Proposed Interpretation or Definition

Addressed by Petitioner

-- Brief in Support of Petition..... pp. 32-33

-- Reply to North Slope Borough Brief in
Opposition..... pp. 16-18

Respondent North Slope Borough Brief in Opposition.. pp. 38-39,
43, 46-
49, 52

NANA Briefs

-- Comments Supporting Petition..... p. 7

-- Comments in Reply to Brief in Opposition.... None

Pertinent Facts Summary

The Commission recalls the testimony of James Sharp, NSB Administrator of Finance, to the effect that existing, outstanding NSB bonds will be paid off by 1996 regardless of whether the detachment takes place. Sharp also testified that new oil developments on the North Slope could add to the NSB tax base.

The Commission also recalls the December 30, 1985 Legislative Digest extract attached to the testimony of Willie Hensley to the effect that some \$10 billion of industrial investments are projected to occur in the NSB during the next 10 years.

Commissioner Nordale's letter also recited the expectation of other sources of oil revenue for the NSB.

The Commission finds that the projected Red Dog development represents a very small part of the NSB's tax base and financial structure -- approximately 1.27% of NSB tax base and 1.26% of NSB revenues.

With respect to the sub-issue of NSB's fear of other detachments, the Commission finds from Mr. Sharp's testimony that the NSB's real concern is not with the instant proposed detachment. Rather, the concern is that additional, other areas might be proposed for detachment "which are economically more meaningful" to the NSB.

The Commission finds that the best way to deal with the legitimate NSB concern is for the Commission to use sensitivity and to adopt sound criteria for rendering detachment decisions and to avoid irresponsible action on proposed detachments. The Commission believes that the current proceeding is an example of sensitive and responsible decision-making.

The Commission observes that counterbalancing any loss of revenue to the NSB which might be occasioned by the detachment, there will be a savings in the form of avoided costs for services that the NSB would not be required to incur in the detached territory. The Commission was not able to come to a conclusion with respect to what the magnitude of the loss would be.

FACTOR

8. Will the proposed detachment strengthen or weaken the long-term stability of all borough boundaries and borough finances throughout Alaska?

Subissues

Source in This Proceeding

Respondent North Slope Borough's Brief in Opposition

Proposed Interpretation or Definition

Addressed by Petitioner

-- <u>Brief in Support of Petition</u>	None
-- <u>Reply to North Slope Borough Brief in Opposition</u>	pp. 15-16
<u>Respondent North Slope Borough Brief in Opposition</u> ..	pp. 39-43, 48-50, 52-53

NANA Briefs

-- <u>Comments Supporting Petition</u>	None
-- <u>Comments in Reply to Brief in Opposition</u>	None

Pertinent Facts Summary

The Commission is sympathetic to this concern and has given serious consideration to it, but observes that there is no substantial evidence of record to support a finding that the proposed detachment will have the adverse state-wide effect posited.

In order to develop a record on this issue, the Commission directed staff to give widespread notice to local governmental entities of its hearing in Anchorage. During the Anchorage hearing, there was not testimony on this issue. Limited correspondence was subsequently received from the Kenai Peninsula Borough, the Kodiak Island Borough, the Cordova City Council, and the Mayor of Anchorage. None of this correspondence indicated that this factor was a matter of pressing concern.

The Commission believes that there is no substantial evidence of record to support a finding that the state has a reckless attitude toward detachments. The Commission further finds that so long as it uses reasonable factors, bases its decisions upon adequate information, and approaches all detachment matters carefully and responsibly, the concern which underlies this factor will be satisfactorily remedied.

FACTOR

9. Will the proposed detachment protect subsistence resources and balance development and conservation concerns?

Subissues

Source in This Proceeding

Respondent North Slope Borough's Brief in Opposition

Proposed Interpretation or Definition

Addressed by Petitioner

-- Brief in Support of Petition..... pp. 21-24
(as part of Factor 1)

-- Reply to North Slope Borough Brief in
Opposition..... None

Respondent North Slope Borough Brief in Opposition.. p. 45

NANA Briefs

-- Comments Supporting Petition..... Not as a
specific separate factor

-- Comments in Reply to Brief in Opposition.... p. 12

Pertinent Facts Summary

Most of the evidence to come before the Commission on this issue came in the form of public testimony during the hearing in Noatak and Kotzebue. The weight of that evidence was that the proposed NWAB would be capable of protecting the concerns of the users of the territory, the people of the Noatak, Kivalina, Kotzebue and the NANA region.

The Commission specifically recalls Mr. Schaeffer's testimony to the effect the NWAB regulations would be at least as stringent as existing NSB regulations.

The Commission finds that the weight of the evidence on this issue tends to favor the proposed detachment.

FACTOR

10. Will the proposed detachment promote harmonious relations between neighbors?

Subissues

Source in This Proceeding

Petitioner's Brief in Support of Petition

Proposed Interpretation or Definition

Addressed by Petitioner

- Brief in Support of Petition..... p. 34
- Reply to North Slope Borough Brief in Opposition..... p. 18

Respondent North Slope Borough Brief in Opposition.. pp. 29-30, 51-52

NANA Briefs

- Comments Supporting Petition..... pp. 2-3, 6-7
- Comments in Reply to Brief in Opposition.... pp. 8-12

Pertinent Facts Summary

As Commissioner Anderson observed, in most if not all boundary changes there are very strong feelings on both sides of the question at the time a change is made, yet over time passions cool and both sides learn to live with and adapt to the change. Based on the public testimony, the Commission finds that there will probably be hard feelings for a while, whatever decision is reached on the proposed detachment. Overall, this factor is inconclusive on the resolution of the best interest determinations which the Commission must make.

FACTOR

11. What does the record of the public hearings and other information submitted in this proceeding show regarding pertinent public opinion on the proposed detachment?

Subissues

Source in This Proceeding

Respondent North Slope Borough's Brief in Opposition

Proposed Interpretation or Definition

Addressed by Petitioner

- Brief in Support of Petition..... None
- Reply to North Slope Borough Brief in Opposition..... pp. 14-15

Respondent North Slope Borough Brief in Opposition.. p. 46

NANA Briefs

- Comments Supporting Petition..... pp. 8-9
- Comments in Reply to Brief in Opposition.... None

Pertinent Facts Summary

The weight of the public testimony in Kotzebue and Noatak was an almost unanimous desire for detachment.

The weight of the public testimony in Point Hope and Barrow was an almost unanimous opposition to detachment.

Public comment on both sides articulated strong self-determination concerns.

The Commission further finds that this balance of local sentiment, pro and con, underscores the Commission's responsibility to carefully, deliberately and impartially evaluate the various substantive issues which have been raised and to render its decision based upon the record taken as a whole.

FACTOR

12. Will the proposed detachment aid in perfecting the boundaries of the North Slope Borough and the proposed Northwest Arctic Borough according to existing economic, historical and cultural use areas and geography? Text of factor stated as amended by LBC during session of January 18, 1986.

Subissues

Source in This Proceeding

Petitioner's Brief in Support of Petition

Proposed Interpretation or Definition

Addressed by Petitioner

- Brief in Support of Petition..... pp. 2-8
- Reply to North Slope Borough Brief in Opposition..... pp. 5-7

Respondent North Slope Borough Brief in Opposition.. p. 10-14

NANA Briefs

- Comments Supporting Petition..... pp. 2-3
- Comments in Reply to Brief in Opposition.... pp. 8-12

Pertinent Facts Summary

The Commission observes that its original understanding dating back some 13 years was that the NSB boundary was to be set to reflect the rationale that the NANA and Arctic Slope Regional Corporation boundaries were to be co-terminous. The proposed detachment would correct what might be characterized as an anomaly of an overlapping boundary. The Commission finds that this is a unique situation in the state. Therefore, procedures which might be invoked to correct this boundary situation could not necessarily be considered as precedent with regard to any other area in the state.

With regard to the physical geography of the territory, the Commission observes and finds that the 68° parallel does not

describe any geographical or topographical feature of the land. Public testimony from Kivalina suggested that a more geographically-oriented boundary (which also would have cultural and historical significance) would be the crest of the Brooks Range. The proposed detachment would tend to move the boundary in this direction.

Finally, the Commission finds one further unique fact pertinent to this discussion, namely that the NANA region is regarded both by the people who live within and generally throughout the state as a single economic unit.

Overall, this factor tends to support the proposed detachment, but the sense of the Commission is that it is entitled to less weight than other factors.

FACTOR

13. Will the proposed detachment facilitate control over industrial development and management of rapid social and economic change by those communities and people most affected by them?

Subissues

Source in This Proceeding

Specific Concerns of Public Witnesses Particularly From Noatak and Kivalina and generally in NANA briefs

Proposed Interpretation or Definition

Addressed by Petitioner

-- <u>Brief in Support of Petition</u>	None
-- <u>Reply to North Slope Borough Brief in Opposition</u>	None
<u>Respondent North Slope Borough Brief in Opposition</u> ..	None

NANA Briefs

-- <u>Comments Supporting Petition</u>	pp. 7-9 12
-- <u>Comments in Reply to Brief in Opposition</u>	None

Pertinent Facts Summary

With regard to the management of rapid social and economic change, the proposed detachment will definitely help the people of the Kivalina, Noatak, Kotzebue area, who (the Commission has previously noted) will be most affected by the impacts of the Red Dog development.

Detachment will also provide the financial resources in the form of a tax base whereby local control can be implemented.

As will be discussed under Factor 15, there are short term efficiencies to be gained by taking advantage of the existing NSB infrastructure. Overall, however, these short term efficiencies are outweighed by longer term considerations.

The public testimony did bring one additional issue to light which the Commission wishes to note. The Point Hope people perceive that the Red Dog development will have significant impacts on them. They expressed concern over caribou, air quality and water quality. On this last point, the Commission observes that the Red Dog will drain southerly into the Kotzebue area rather than northerly into the Point Hope area. The important point is the need for coordination and communication between the NANA people and the Point Hope people with regard to the regulation and local governmental control over development in the detached area and the provision of local employment opportunities.

The Commission observes that many, if not all, of these issues can and should be addressed during proceedings (yet to be completed) for the rezoning of areas within the detachment territory. The Commission notes, for example, that the Red Dog development must still secure re-zoned status.

FACTOR

14. Will the proposed detachment promote the equitable distribution of resources among regions in rural Alaska?

Subissues

Source in This Proceeding

Section 19 AAC 10.570 Staff Report

Proposed Interpretation or Definition

Addressed by Petitioner

-- Brief in Support of Petition None

-- Reply to North Slope Borough Brief in Opposition . None

Respondent North Slope Borough Brief in Opposition None

NANA Briefs

-- Comments Supporting Petition None

-- Comments in Reply to Brief in Opposition None

Pertinent Facts Summary

Rejected.

FACTOR

15. Could uncontrolled development occur before the proposed Northwest Alaska Borough can implement its regulatory and planning powers?

Subissues

Source in This Proceeding

Respondent North Slope Borough's Brief in Opposition

Proposed Interpretation or Definition

Addressed by Petitioner

-- Brief in Support of Petition..... None

-- Reply to North Slope Borough Brief in Opposition None

Respondent North Slope Borough Brief in Opposition.. pp. 45-46

NANA Briefs

-- Comments Supporting Petition..... None

-- Comments in Reply to Brief in Opposition.... None

Pertinent Facts Summary

The Commission finds the transition issue to be a matter of legitimate concern. The Commission is aware that it is a long step from the incorporation of a NWAB to "on-the-ground" implementation of local governmental regulatory and planning powers.

Nevertheless, the Commission finds that uncontrolled development is not likely to occur before a NWAB could implement its powers. NSB witnesses have indicated that the NSB permit issue for the Red Dog development was only one of the twelve required permits.

The evidence on record is voluminous that everyone wants to control the Red Dog development to ensure that it proceeds safely and responsibly.

The Commission will consider this concern again when it reviews the formation of any borough that may be created.

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LOCAL BOUNDARY COMMISSION

STATE OF ALASKA

IN RE:)
THE DETACHMENT FROM THE NORTH)
SLOPE BOROUGH OF TERRITORY)
WITHIN AND ADJACENT TO THE)
NANA REGION)
_____)

PROCEEDINGS OF COMMISSION DECISION IN RESPONSE TO
PETITION FOR LOCAL GOVERNMENT BOUNDARY CHANGE
APPENDIX B

APPEARANCES:

- CHARLES BETTISWORTH
Acting Chairman

- JO ANDERSON
Commissioner

- DAVE HANSON
Commissioner

- WILSON CONDON
Special Counsel

- GORDON HARRISON
State of Alaska, O.M.B.



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P R O C E E D I N G S

1
2 CHAIRMAN BETTISWORTH: We will reconvene this decisional
3 meeting of the Local Boundary Commission. When we took a
4 break, we had just completed review of each of the factors,
5 and made a determination of which of those would be included.
6 I guess with that, we can begin with item number seven,
7 discussion by Commission of each factor with reference to the
8 pertinent briefs, public comments and record, and to develop
9 the guidelines for Staff to prepare proposed findings of fact.
10 I guess with that, then we would start with number one, and
11 Mr. Condon, is it your intention that we should actually get
12 into these -- like for instance go to each of the briefs that
13 are mentioned and sort of discuss the issues noted in the pages
14 cited and make sure that those are in the record as part of
15 our consideration, and have whatever discussion is appropriate
16 to each one of those as we work our way through this?

17 SPECIAL COUNSEL CONDON: I think that that's a good idea.
18 I know that it's time consuming, but I think that's the --
19 probably the best way that you could fairly consider what
20 facts may be important, and what people have to say about
21 them. And so I think it's worth taking the time to just sit
22 for a minute and read through the briefs about -- the brief
23 sections that I have cited, and see what the parties have to
24 say, think about the facts that they allege have been found,
25 and then discuss the matter after you've had a chance to go

1 through it.

2 CHAIRMAN BETTISWORTH: Okay. On factor number one -- I
3 guess as we work our way through this, then also there's the
4 other items that we would see and note as we work our way
5 through this. Mr. Hanson?

6 COMMISSIONER HANSON: Before we go directly to briefs, we
7 could just talk about the factor itself for a moment. It
8 refers to characteristics of the population of the territory
9 proposed to be detached, and as our record shows, there is not
10 a resident population in the territory. And at the last meet-
11 ing of our decisional meeting a week ago, I had suggested we
12 interpret this to refer to people who use the territory to be
13 detached. Is that an acceptable interpretation and definition?

14 COMMISSIONER ANDERSON: I think we probably agreed to it
15 last week, didn't we?

16 COMMISSIONER HANSON: Okay. So, then what we're really
17 saying is we're not talking -- let me see. What we're really
18 saying is -- I guess we've really not gotten (indiscernible)
19 in the factor

20 CHAIRMAN BETTISWORTH: No.

21 COMMISSIONER HANSON: this is where I'm going to
22 amend that, but basically when you say population, you're
23 referring to those people who use the area?

24 CHAIRMAN BETTISWORTH: Uh-huh. Right. Mr. Condon, do
25 you see that as a problem?

1 SPECIAL COUNSEL CONDON: Excuse me for -- well, I'm not
2 going to say, no, it's no problem. I think that your inter-
3 preting it in this manner is reasonable, and that that is the
4 most defensible thing to do under the circumstances -- the
5 most defensible interpretation, but

6 CHAIRMAN BETTISWORTH: It seems to me our only option
7 would be to not consider the factor at all, and I think it's
8 more important to consider the factor for those people that
9 use it, than to not consider it because there is no resident
10 population.

11 SPECIAL COUNSEL CONDON: I certainly think that's the
12 most defensible judgment.

13 CHAIRMAN BETTISWORTH: Yeah. And I think -- I agree.
14 Okay. Then that would be sort of the circumstances under
15 which we would -- we look at this. Is there anything else
16 with respect to the terminology of the factor that we need to
17 look at with respect to interpretation and definition? The
18 terms that we've talked about I think in the past are sub-
19 stantially different or in conflict with, and I remember that's
20 been raised not only by ourselves, but also by each of the
21 Petitioners in their briefs, or each of the Petitioners and
22 Respondents. Is there any comment? Or should we just go to
23 the briefs, and maybe

24 COMMISSIONER HANSON: I guess I'd like to hold comment
25 on that, except that I think we have to look at those two

1 terms in relationship to social, cultural, and economic concerns
2 and characteristics as it states. In other words, there may
3 be a conflict that just is oriented around economic character-
4 istics, for example, and I feel that should be noted if there
5 is.

6 COMMISSIONER ANDERSON: I would agree.

7 CHAIRMAN BETTISWORTH: Okay. With that, the first
8 citation is a brief in support of the petition, pages 21 and
9 24. We'll take a minute so each of us can read those. Any
10 comments on that from the Commissioners?

11 COMMISSIONER HANSON: It seems to me, in dealing with
12 this one -- I'm wondering how to go about this, whether we
13 should try to read through all of these page numbers and then
14 discuss it in general, or discuss it after each one. And my
15 second comment is one of the first things we need to do is
16 before we can answer the question posed, is identify based
17 upon the information we have been given who we consider to be
18 the people that use the area. And obviously this brief gives
19 us the Petitioner's interpretation, and some good information
20 on the people that use the area.

21 CHAIRMAN BETTISWORTH: I don't particularly -- can you
22 be clear

23 COMMISSIONER HANSON: Okay. My first question is should
24 we read all the briefs and discuss this across the board
25 generally, or should we try to discuss it after we just

1 re-review each brief?

2 SPECIAL COUNSEL CONDON: I think you ought to read it
3 all -- all the briefs. It won't take very long.

4 (Indiscernible - simultaneous speech)

5 SPECIAL COUNSEL CONDON: Just read all the briefs from
6 end to end, but the way it's broken up, I think you've just
7 got a fair -- a picture of -- by reading what everybody says
8 before you start to evaluate. There are some people here who
9 would like to have copies of the briefs to read. As you're
10 going through them, I'd be happy to go get some more copies
11 made if I knew how many to get made.

12 CHAIRMAN BETTISWORTH: How many of the people here would
13 like to have copies of the briefs? Okay. Say a dozen?

14 SPECIAL COUNSEL CONDON: Okay. I'll do that. I'll be
15 gone for about a half an hour, or so, but if you don't need
16 me to

17 CHAIRMAN BETTISWORTH: Good. While we're reading through
18 these things, I would declare a five minute recess.

19 (Off record)

20 CHAIRMAN BETTISWORTH: We'll reconvene this decision meet-
21 ing again. We're working on factor number one. The Commission
22 has taken several minutes to go through each one of the briefs
23 that are cited, and through their notes. I guess I'd like to
24 make one comment -- is that I made a quick calculation, and
25 if we were to take fifteen minutes for each one of these

1 fifteen factors, we're going to be here 3.75 hours, which
2 means -- well, let's say four hours. We'll be out of here by
3 8:00 o'clock. I would -- I think we should do -- to do the
4 work that is necessary, we need to be expeditious about it.
5 We've all read these briefs, so I think we can go through,
6 and -- and we're familiar enough with them, with the citations,
7 to quickly pick up on those significant points that we find,
8 and again, these first two or three -- three or four probably
9 are going to be more slower than the rest. So, I guess my
10 urging is -- to the Commission would be as expeditious as
11 possible. And again, at each time we come to a new factor and
12 it's time to sort of review our notes, I'll call a short break,
13 and then we can proceed. All right. With that, what -- what
14 are the comments of the Commissioners with respect to the
15 citations?

16 COMMISSIONER HANSON: Mr. Chairman, do you want

17 CHAIRMAN BETTISWORTH: Go ahead.

18 COMMISSIONER HANSON: Me first for a change?

19 CHAIRMAN BETTISWORTH: Yes.

20 COMMISSIONER HANSON: Okay. I guess -- under the first
21 citation, reading the petition itself -- basically what the
22 citation there is, is in the summary on page 24 there's the
23 issue of traditional use -- let me just read it. It says,
24 in summary, the people of the NANA region have traditionally
25 used, and still rely upon the area to be detached for

1 the residents of the North Slope Borough, have little if
2 any past or present reliance on resources in this area.
3 To help protect the resources, the municipal planning powers
4 and the Coastal Zone Management Program are important for
5 these resources to fall within the jurisdiction of the NANA
6 region. I guess that, and this is sort of by way of adding
7 support to that, I think in the hearings the Minecwook (pn)
8 presentation and also submission of a paper by Mr. Biron
9 discussed to a very great degree this issue and the fact that
10 really the people in the NANA region are the ones who really
11 are the people who are using it, using the area. The reply
12 brief, the -- I guess what it wanted to do is -- let me go
13 to what the brief's opposition says on this issue. And
14 basically their argument is that what is described as use
15 of the land does not really represent a substantial dif-
16 ference in cultural-social characteristics and, in fact, they
17 point out there's a substantial similarity and a lack of con-
18 flict between the two areas. To counter that argument, then,
19 in the reply brief from the petitioner, they note that they
20 agree that there's no substantial difference or that the
21 areas are not necessarily in conflict but that, in fact, they
22 are distinctive and can be distinguished from one another.
23 And I guess this gets into the issue of interpretation about
24 substantially different or in conflict and now we want to
25 view that, those two comments. The NANA brief, there's

1 actually two citations that I would like to note. Just a
2 second here. In the brief itself, the point that NANA makes
3 is that, in fact, the Alaska Native Claims Settlement Act
4 defines this boundary of use and the distinct differences
5 between Arctic Slope region and NANA region and their
6 ruling was based upon what the Secretary of Interior certi-
7 fied when he certified Alaska Native Claims Settlement Act
8 and the regional boundaries. And I think that's the same
9 argument again that they make in their reply to the opposi-
10 tion brief on page 12. The -- and, in fact, they go through
11 a lengthy discussion of the whole issue of how the borough
12 boundary got to be formed and the interpretation that it
13 seemed like the Boundary Commission had the impression that
14 the two boundaries were going to be (indiscernible). That
15 doesn't necessarily deal with the issue of whether they're
16 culturally or substantially different, in conflict, they just
17 note that -- basically what they're talking about here is
18 the error that could have been made at the time that the
19 borough boundary was formed. And I guess that even that
20 citation is more appropriately dealt with in this issue per-
21 fecting boundaries. I guess that's basically my findings.
22 I guess.....

23 COMMISSIONER HANSON: Mr. Chairman.

24 CHAIRMAN BETTISWORTH: Yes.

25 COMMISSIONER HANSON: Maybe we should throw in a few

1 things before we go.....

2

* * *

3

CHAIRMAN BETTISWORTH: Well, I -- yes, I don't consider
4 this to be the end of the discussion.

5

6 COMMISSIONER ANDERSON: Yes, I have something I'd like
7 to add. This is from the briefs in support of the petition
8 for detachment. On page 23, I'm just reading a bit of this:
9 Once again, the 1950-1960 Seasonal Use (Indiscernible) docu-
10 ment Alaska Natives and the Land demonstrated absence of use
11 by the residents of the North Slope Borough. Only the
12 village of Point Hope demonstrated a marginal interest in
13 the area during that period. And it goes on to say the same
14 things that you've just said. And it says further down in
15 the paragraph: Additionally, transportation routes to the
16 area of detachment are virtually nonexistent for the North
17 Slope residents. That's all I really have.

18

19 COMMISSIONER HANSON: Mr. Chairman, I might just make
20 a correction. I believe when you mentioned about the bound-
21 aries being determined by the Native Claims Act -- were you
22 referring to the work that was done in implementing the
23 Claims Act, set up regional boundaries, and that those follow
24 boundaries set forth in documents such as Alaska Natives and
25 the Land.

26

CHAIRMAN BETTISWORTH: Correct. Uh-huh.

27

COMMISSIONER HANSON: And on page 21 of the

1 petitioner's brief it states document titled Alaska Natives
2 and the Land included as Attachment 25 unequivocally
3 establishes the NANA region is, for the most part, dis-
4 tinguished from the North Slope region in its physiographic
5 characteristics, cultural composition, societal structure,
6 political organization and economic exchange, and it refers
7 to the page numbers. Interestingly, when dividing the state
8 into 15 regions which offer to us the greatest degree of
9 homogeneity and physiography, ethnography, biotic provinces,
10 natural resource patterns and an aggregate potential for
11 meaningful economic analysis, this document identified the
12 region generally prescribed by the NANA Regional Corporation
13 boundaries as a distinct unit. I've looked at the document,
14 Alaska Natives and the Land, and I found this to be true,
15 but I have several -- the whole situation is a little more
16 complex than that, as we all learned in the hearings and in
17 looking at these briefs. And I'd like to just make a few
18 comments, if that's okay.....

19 CHAIRMAN BETTISWORTH: Go ahead.

20 COMMISSIONER HANSON:generally. First, it does
21 seem to me that the main people that use this area, and
22 that the data shows it, are the people of Noatak and Kivalina
23 Villages and generally the people of the NANA region who work
24 with the Red Dog Mine, people of Noatak and Kivalina just
25 in their normal use of the area for subsistence and other

1 purposes as we heard in the hearings, and a great deal of
2 testimony was given on that on several sources I've mentioned.
3 But as we've also heard, it isn't a clean slate, this is an
4 area that's used -- been used historically at times for
5 trade routes and also there's been interaction with Point
6 Hope, for example, that the record brings out. But we've
7 got a predominant use area for the people of the NANA area.
8 And looking at it just real quickly, some pros and cons, the
9 separate regions we mentioned were based upon social and
10 cultural characteristics. In Point Hope, the NANA people
11 were referred to as the shallow water people versus the deep
12 water people of the North Slope. This was in the Point Hope
13 hearing. NANA residents socially, looking at social dif-
14 ferences, live in the unorganized borough where the North
15 Slope residents have been in a borough for thirteen years,
16 and on the other side of it they are all Inupiat and sub-
17 sistence is important in both areas. And, as the North
18 Slope Borough petitions have pointed out, Kivalina also comes
19 up to get some whales at Point Hope and there is some
20 exchange, as Mr. Hall points out, some bartering and exchange
21 of goods that goes on in the area. And culturally, in an
22 archeological sense, I think the predominance of the evidence
23 shows that, from what we've heard in the hearings and so
24 forth, the sites are identified as being mainly NANA sites
25 as part of the NANA region, part of the 14-H sites and so

1 forth. And also the range of areas are based on watershed,
2 definitely follow the -- going south, for Kivalina and for
3 Noatak, Point Hope goes to the northwest; different Fish and
4 Game districts following the crest of the Brooks Range.
5 Basically, it's NANA territory, and they have a strong
6 historic claim. Though, in looking at this question, you
7 still can argue that you've got the same -- some of the same
8 basic culture. You've got ranger-herders on both regions,
9 for example. Then you go to economic characteristics, and
10 the North Slope Borough is much more affluent as far as
11 public wealth: \$1.5 million per capita, and 15 times larger
12 than the \$28,745.00 per capita that the record mentions for
13 the NANA area. And I guess I'm going now to the question
14 of economics a little bit in relation to this question, but
15 the North Slope Borough resistance to detachment due to the
16 Red Dog Mine is part of an economic base they see for them-
17 selves, and yet for NANA it's the only economic base they
18 see and it's not yet developed. And we'll deal with that
19 later more. NANA residents are economically and politically
20 definitely affiliated with the NANA region, where the North
21 Slope Borough residents seem to be affiliated the other way.
22 But if you went into anybody's homes, probably if you did
23 anywhere in Bush Alaska just about, you'd find generally the
24 same kind of lifestyle when you went into a home in a village
25 in NANA versus in the North Slope, but I think that's

1 probably true across the state so that may not be relevant
2 to this consideration. So I've gone on all that is, I see
3 two or three things here that really focus it in. I see a
4 little bit of a distinction between which ethnographer --
5 I mean, Hull obviously doesn't think there's as much dis-
6 tinction as someone like Birn does. What we heard in the
7 hearings was quite a bit of distinction on use area, and
8 there's no debate that the use area is definite, no -- there
9 are no fences, so obviously NANA goes in the North Slope
10 Borough at times and certain people, especially Point Hope,
11 is to some extent interrelated. On the work force, both
12 petitioner and the respondent brought up the big work force
13 item. And I think it is pointed out that petitioner -- the
14 respondent pointed out that the work forces aren't that
15 different. I mean, if you work for a money economy, you work
16 for a money economy. NANA points out that 80 percent of the
17 people at Red Dog, of course, if that work force is developed,
18 would be with -- you know, would be from NANA. I guess what
19 I find is this is a definite use area. There are definitely
20 some distinctions and differences. I think, though, this
21 factor and the way it's laid out is more trying to determine
22 if there is -- there should be a detachment because of such
23 a substantial difference, or a conflict between two popula-
24 tions. I guess I'll stop right there and see what your
25 reactions are. That's about where I am right now.

1 CHAIRMAN BETTISWORTH: Commissioner Anderson, you have
2 something?

3 COMMISSIONER ANDERSON: Yes. I'll just -- I will say
4 of interest to me are the public hearings. In Point Hope
5 we did realize that there was a lot of intermarriage that
6 was going on in relationships there, but that is the only
7 place in the borough that we heard that type of testimony.
8 As we went to the other places, I mean, it just doesn't come
9 out, but there apparently is a lot of interrelated families
10 between Point Hope and the NANA area. Of course, they're
11 very close.

12 COMMISSIONER HANSON: I don't think -- you know, like
13 it's not debatable, especially the fact that they even had
14 a boundary dispute over whether Point Hope should be part
15 of NANA or part of the North Slope, that the NANA -- that
16 the Point Hope area definitely has some interrelational ties.

17 CHAIRMAN BETTISWORTH: Our role, in our considerations
18 right now, is not actually to come to a decision but to at
19 least list those things which we have considered.

20 COMMISSIONER HANSON: It's also one that we can go
21 on forever on.

22 CHAIRMAN BETTISWORTH: Well, I'll make a summary state-
23 ment that I think there's -- predominantly, it's a use area
24 for the NANA people. That's not to the exclusion of every-
25 one. There are some distinctions between the North Slope

1 people and the NANA people, culturally and socially.
2 Perhaps the biggest one is public wealth economically.

3 CHAIRMAN BETTISWORTH: Do you find that there's an
4 exhibition of conflict between the two regions, between these
5 distinctive groups?

6 COMMISSIONER HANSON: There definitely has been in
7 regard to the detachment issue and the Red Dog Mine. Whether
8 there is in everyday life, excluding the Red Dog Mine,
9 existence, I think is a pretty tough question that I don't
10 think I have the data to say there's a substantial conflict.

11 CHAIRMAN BETTISWORTH: I guess from my point of view --
12 or it could be seen that exclusive of -- well, Red Dog Mine
13 is one resource development area within what is described as
14 the NANA region. It's probably one resource area of several
15 that is within the detachment area, which means in the NANA
16 region but yet in the borough, in the North Slope Borough.
17 While there may not be conflicts right now over those
18 resources and the development of those resources, it seems
19 like that conflict is -- has a potential for developing.
20 And then what we're talking about is what the potential is,
21 rather than whether they currently exist. And I think that
22 the whole proceedings is, in fact, a demonstration of
23 potentiality of the conflict.

24 COMMISSIONER HANSON: Well, and the existence of an
25 immediate conflict and what to do about the revenues from

1 that mine.

2 CHAIRMAN BETTISWORTH: Are there any other comments
3 with respect to this factor?

4 COMMISSIONER ANDERSON: I have none.

5 CHAIRMAN BETTISWORTH: Mr. Hanson? I guess the other
6 thing we want to make sure that our staff understands is that
7 when we go through these today and we get to take a look at
8 the (indiscernible) tomorrow, I believe we'd expect that
9 we'd make revisions or reinterpretations or at least addi-
10 tions to -- small additions to each of these as we look at
11 them and review them tomorrow.

12 COMMISSIONER ANDERSON: If necessary.

13 COMMISSIONER HANSON: Maybe the one thing that,
14 further stated, we had some discussion about people from
15 Anatuviik Pass using this area. That again seemed to be more
16 of a minor use than the strong present-day use, but I did
17 look at the source document put out on the Anatuviik Pass
18 Village and noticed that their maps where people were born
19 over the years just overwhelmingly oriented toward the North
20 Slope. There were three or four indications from 1900 on
21 or something where individuals were born in the NANA region
22 then. But I think a distinction should be the question of
23 how much use.

24 CHAIRMAN BETTISWORTH: Any other comments with respect
25 to Factor 1? Okay. With that, we'll go on to Factor 2 and

1 we'll take a five-minute recess to review these citations.

2 (Off record)

3 CHAIRMAN BETTISWORTH: We'll reconvene. We're now
4 dealing with Factor No. 2. The commissioners, after a short
5 recess, have reviewed the citations.

6 CHAIRMAN BETTISWORTH: Mr. Hanson, would you wish that
7 I begin?

8 COMMISSIONER HANSON: Yes.

9 CHAIRMAN BETTISWORTH: Okay. In the brief in support
10 of the petition, this factor: Does the geographic location
11 or configuration of the territory proposed to be detached
12 preclude the provision of those services provided other areas
13 of the detaching borough or make the provision of borough
14 services impractical. I think before we get into these
15 citations I think we might come here to look at the proposed
16 interpretations and definitions. There were questions raised
17 at our last meeting last Saturday in Fairbanks regarding the
18 terms "preclude" and then "impractical." And maybe, Mr.
19 Hanson, you might refresh our memories. You're the one
20 who made these comments.

21 COMMISSIONER HANSON: I had read the definitions in
22 the record last week and the main substance of them was that
23 impractical, for example, refers to be unwise to put into
24 effect or keep in practice or effect or to be incapable of
25 dealing sensibly or prudently with practical matters. The

1 reason I thought it was important was I think in looking at
2 impractical or the wisdom of a practice, whether it's a
3 prudent practice, I think there are two key considerations
4 we're talking about.

5 CHAIRMAN BETTISWORTH: Basically, what the factor is
6 dealing with is two issues. One is preclusion.

7 COMMISSIONER HANSON: Right.

8 CHAIRMAN BETTISWORTH: And the other one is practi-
9 cality, the issue of practicality. And we can -- the term
10 is "or." Is it precluded or is it impractical. So then,
11 with that, are there any other comments on this issue of
12 definitions, interpretation?

13 COMMISSIONER HANSON: Well, I think we all understand
14 what preclusion means.

15 CHAIRMAN BETTISWORTH: Okay, with respect to citations
16 in the brief in support, pages 24 through 27, the petitioner
17 dealt specifically with those issues. Basically, the
18 position of the petitioner is that it's more practical to
19 deliver services to this detached area from a future NANA
20 borough than it would be -- or NANA region borough than it
21 is to deliver services from the North Slope Borough centered
22 in Barrow. The -- in the reply to the borough's brief in
23 opposition, pages 12 and 13, they -- no, in the petitioner's
24 reply, on pages 12 and 13, they go back to the term
25 impractical, impracticality, and really do not address the

1 issue of preclusion of services, kind of restating what they
2 said in the original petition. The brief in opposition, on
3 34 and 35, the petitioner used the other side, which is that
4 services -- the provision of services are not precluded by
5 the geography, and they go on to cite all the areas within
6 the borough that they provided services to and then the fact
7 that even some of those are a further distance than the Red
8 Dog Mine site. Again, the citation is: Present lack of
9 overland and marine transportation links between Barrow and
10 other communities does not prevent effective conduct of
11 borough business. Borough officials on public business
12 customarily travel by air to various communities, not by
13 ship or highway. And, again, their summary is: Thus, no
14 reasonable basis to -- there is no reasonable basis to
15 conclude that the geography or the configuration of the
16 territory proposed for detachment precludes or makes
17 impractical provision of services to them by the North Slope
18 Borough. NANA's brief, wherein the comments -- actually,
19 I have a little trouble with the citation on page 1 because
20 I really can't find what they're looking for. out on page
21 6 they note that the detachment area will be serviced by a road
22 and port that is being developed as part of the DeLong
23 Mountain transportation system. I guess it's worthwhile
24 pointing out, however, that that road and port system does
25 not connect the Red Dog Mine site to Kotzebue. It only

1 connects it to the ocean.

2 COMMISSIONER ANDERSON: It does mention that the port
3 and 80 percent of the road will be in NANA territory, however,
4 not in the North Slope Borough territory. One more comment:
5 You pointed out everything that I had looked at.

6 CHAIRMAN BETTISWORTH: Mr. Hanson.

7 COMMISSIONER HANSON: I have -- as you probably sur-
8 mised, I spent quite a bit of time this week in looking at
9 the first three factors, and so I did write down some con-
10 siderations. If you'll bear with me a few minutes I would
11 like to go over them. I'll try to be succinct. First of
12 all, just looking at the situation of facts, where is it
13 located, and we've already gone over that, related to the
14 rest of the borough, it's separated by the Brooks Range from
15 the rest of the North Slope Borough. It's also a large part
16 of the -- probably the eastern two-thirds to three-quarters
17 of it is National Noatak Preserve and Arctic Park, which is
18 sort of a dividing line of sorts along the Brooks Range
19 between the two areas, the two regions, though both regions
20 include part of it and above. All the drainages in the
21 detached area flow toward NANA villages and are non-North
22 Slope Borough rivers and watersheds, from the standpoint that
23 they're flowing south and not north toward the majority of
24 the borough. It's a great distance from Barrow; it's close
25 to Noatak and Kivalina. It's -- as we mentioned before,

1 it's Fish and Game district -- rangers use the crest of the
2 mountains; the regional corporation boundary uses the north
3 side of the detached areas, attempting to follow the crest
4 of the mountains in a negotiated fashion. And services such
5 as mail, emergency medical services, Fish and Game, land
6 planning on federal and private lands come from Kotzebue,
7 and except for the borough's planning essentially everything
8 is coming out of Kotzebue to the north. The -- just with
9 these in mind, I think first of all obviously the geography
10 of the Brooks Range separating this from the rest of the
11 borough doesn't preclude the provision of rural services.
12 And the petitioner's representative mentioned in the hearing
13 the North Slope Borough has adequate resources to deliver
14 services just about anywhere in the state. And the North
15 Slope Borough has already been delivering them, planning and
16 zoning and permitting services to this area. That goes for
17 specs. But I think there is something about it being
18 impractical. Though now it's just planning and zoning and
19 permits, in the future it could be a whole range of borough
20 services. And I guess I feel it is impractical, and that the
21 geographic situation is in a large part responsible for that
22 impracticality. It costs more to fly there and then to fly
23 to Kotzebue, it's physically separated. Users are from a
24 different area and borough and so to get the users' input
25 you have to actually go outside the North Slope Borough to

1 get their input, and that's a factor of geography and con-
2 figuration. There wasn't a public hearing in the last 13
3 years, we heard in testimony; there is going to be one Janu-
4 ary 20th and they're going to have to go to Kivalina and
5 Noatak, outside the borough, to get comments on the users
6 of the Red Dog and the detachment area, though we both so in-
7 dicated that Point Hope to some extent, to a minor extent,
8 was a user area. I think the fact that the state and federal
9 governments already have their services coming out of
10 Kotzebue and not Barrow is a very strong indication on the
11 question of is it impractical to provide services from
12 Barrow, because they could provide them from either place
13 and are doing this pretty much on efficiency and monetary
14 considerations, I'd imagine. And I think you can't get away
15 from a comparative element when you're trying to determine
16 whether a policy or a situation is prudent or wise. You have
17 to look at the way others do it and you have to look at the
18 geographic configuration of one service area as opposed to
19 another. And there's no real debate that it's more efficient
20 from Kotzebue. Now, I recognize that the respondent, the North
21 Slope Borough, does not agree with the interpretation in
22 making it impractical. They do not feel that the fact that
23 it's easier from Kotzebue versus the North Slope is an
24 adequate response. Well, I guess I just have to say on the
25 record I disagree with them. I think if we're going to use

1 the word impractical anywhere in the state that this is
2 definitely a very -- could be called almost a model situa-
3 tion. Because you can -- if somebody wants to bad enough,
4 they could give services anywhere in the state, if they want
5 to. So I find it impractical, and it's because, to a great
6 extent, of the separation by geography. I guess that's the
7 extent of my comment.

8 CHAIRMAN BETTISWORTH: I guess what I was about to do
9 was check the record of the hearings and see what kinds of
10 comments we had during the hearings on this issue, and there
11 were some briefs that were filed by the respondents and
12 petitioners, and my recollection is that I can't think of
13 any on this issue.

14 COMMISSIONER HANSON: Well, several of my comments
15 came from the hearings. In Kotzebue we learned about
16 services being provided by different government entities.
17 We also learned in Barrow about the willingness of Barrow
18 to at this point hold hearings outside the borough in that
19 area, and their willingness to deal with planning and zoning
20 concerns in the area. So -- and there were a few others.
21 Many of my concerns were already.....

22 COMMISSIONER ANDERSON: There are planning and zoning
23 in the area, and a permit.

24 COMMISSIONER HANSON: That's right, and there is one
25 permit as for the Red Dog Mine that comes from the North

1 Slope Borough, that's one out of 28.

2 CHAIRMAN BETTISWORTH: Is there any other comment with
3 respect to Factor 2?

4 COMMISSIONER HANSON: No.

5 CHAIRMAN BETTISWORTH: All right, then, we would move
6 along, then, to Factor No. 3, and we'll take five minutes
7 to review the citations.

8 (Off record)

9 CHAIRMAN BETTISWORTH: We would like to reconvene.
10 We were on consideration of Factor No. 3. Are there comments
11 of the commissioners? Mr. Hanson.

12 COMMISSIONER HANSON: If I may, I would like to make
13 two other -- one a technical point and one a substantive
14 point on Number 2, just for the record.

15 CHAIRMAN BETTISWORTH: Okay.

16 COMMISSIONER HANSON: On the technical point, as in
17 Number 1, we were defining the affected population as being
18 the users of the area. I believe that's still applied, and
19 in Number 1, and that applied in Number 2.

20 CHAIRMAN BETTISWORTH: What you're saying is it also
21 applied to 1 and 2.

22 COMMISSIONER HANSON: Yes.

23 CHAIRMAN BETTISWORTH: Okay.

24 COMMISSIONER HANSON: The second point I want to make
25 is.....

1 CHAIRMAN BETTISWORTH: Is that a substantial, or is
2 it technical?

3 COMMISSIONER HANSON: That's the technical one. The
4 substantial is the Coastal Zone Management Program, and it
5 was talked about in several pieces of information in the
6 record. Coastal Zone Management Program, really due to
7 geography and use area, but to the greatest extent due to
8 geography, the North Slope Borough Coastal Management Pro-
9 gram omits the detached area as far as providing zoning for
10 them. I could double check to make sure that's not an over-
11 statement, but it doesn't provide stipulations for that area.

12 CHAIRMAN BETTISWORTH: I think -- you're talking about
13 the North Slope Borough's Planning and Zoning?

14 COMMISSIONER HANSON: Yes. They -- what it really
15 does is it doesn't deal with the issue of the fisheries and
16 the rivers.

17 CHAIRMAN BETTISWORTH: Okay.

18 COMMISSIONER HANSON: It says that there'll be sub-
19 sistence uses and the drainages and Kotzebue Sound, and it
20 doesn't deal with those issues.

21 COMMISSIONER HANSON: So from a standpoint of the
22 fisheries and the river, it would show that the geographical
23 configuration did affect the coastal management services
24 because it didn't deal with those.

25 CHAIRMAN BETTISWORTH: But then to Number 3, Mr. Hanson,

1 would you like to proceed? I think this is a real difficult
2 one, because I think you've got -- I guess we should probably
3 restate it. Does the lack of transportation facilities pre-
4 clude communication exchange necessary for responsive and
5 integrated local self government. I guess we need to deal
6 again with terms, responsive and integrated.

7 COMMISSIONER HANSON: Right. I guess first trying to
8 define what would be precluded then why it's precluded, if
9 it is. But responsive, first, respond, to react sympathetic-
10 ally, or some few words from the dictionary. Integrate, form
11 it into a whole, unite, and then segregate, being in common
12 and equal membership. The assumption, I think, in this one
13 is that communication and exchange refers to between the
14 North Slope Borough and the users of the detachment area,
15 Noatak, Kivalina, Kotzebue and NANA generally, and, as we
16 said, to a limited extent, Point Hope, though it's transient.
17 Am I overstating Point Hope, in your opinion, Mr. Bettis-
18 worth?

19 CHAIRMAN BETTISWORTH: No, I didn't -- I can't figure
20 where Point Hope fits in the gist that.....

21 COMMISSIONER HANSON: From time to time they are a
22 user of the area.

23 CHAIRMAN BETTISWORTH: Oh, I see.

24 COMMISSIONER HANSON: And I guess the transportation
25 services would be from Barrow. Looking at it, is there

1 communication and exchange right now necessary for
2 responsive and integrated government, and to some extent
3 it's been lacking for the users of the area in that the
4 Noatak and Kivalina people weren't even sure or aware of
5 where the boundary line was, and there was a lack of hearings.
6 But, on the other hand, there's definitely been work on the
7 Red Dog Mine with the NANA Borough and I think it's hard to
8 come to a historic conclusion based on the information we
9 have that there has not been -- I don't think there's -- I
10 think we might be able to say that the users, not the
11 residents of the borough in this case, don't have equal
12 status or rights and aren't integrated into the borough as
13 a whole. They perhaps aren't getting as much respon --
14 communication and exchange as somebody else in other parts
15 of the borough would be since they're outside the borough
16 boundaries, but whether they have been getting no communica-
17 tion or exchange of services, I think, is a difficult ques-
18 tion. And if they have -- if they haven't been getting any,
19 transportation at best is only one of many factors which
20 preclude them getting services.

21 CHAIRMAN BETTISWORTH: You're talking about people who
22 live in Kivalina and Noatak, correct?

23 COMMISSIONER HANSON: Right.

24 CHAIRMAN BETTISWORTH: And maybe Kotzebue, who use the
25 area, getting services from the North Slope Borough.

1 COMMISSIONER HANSON: Communication and exchange neces-
2 sary for responsive and integrated local government. I
3 guess this goes to the point of the definition. What you're
4 assuming then is that -- and under 1, when we made a determin-
5 ation the population was those people the area is used by,
6 that that also applies under Factor 3. That's the assumption
7 they're making. This factor really gives me problems,
8 frankly. I mean, I'm not sure now.....

9 COMMISSIONER ANDERSON: We're talking about the areas
10 to be detached and there are no people in there at the
11 present time. And the transportation and the geographic
12 location and so forth we went through in Factor 2, which I
13 would feel rather relates to this question. But the transpor-
14 tation, obviously the North Slope Borough can provide
15 transportation and services as they do to some of their
16 other areas, they probably could do it here also.

17 COMMISSIONER HANSON: The North Slope Borough provided
18 it, sure, air mileage from Barrow, and Kivalina and Point
19 Hope are not exactly the same air mileage from Barrow,
20 according to the chart that was provided as one of the North
21 Slope Borough attachments. The Red Dog Mine is -- I think
22 it's right next to the line that says 265 miles, Point Hope
23 is 315 miles. I think Noatak would also be within that
24 range of 265 to 315 miles, without looking at this. I guess
25 I -- looking at that and recognizing that that's the main

1 form of transportation to those areas, even though freight
2 comes by ocean, I guess I have two -- on one hand, I have
3 a problem saying that if they weren't getting respon -- if
4 the users weren't getting responsive government I'm not sure
5 transportation would be the factor, because Point Hope is
6 certainly -- appear to be getting -- having responsive local
7 government. And like you say, it depends on interpretation
8 as far as how you define responsive local government. And
9 this particular factor, as a consideration, talks about pre-
10 clusion of -- the lack of transportation precludes it.

11 COMMISSIONER ANDERSON: Let me just -- local govern-
12 ment. This is a long way from -- this area is a long way
13 from being local to Point Barrow.

14 COMMISSIONER HANSON: Yes, but I think they're refer-
15 ring to local borough.....

16 (Indiscernible - simultaneous speech)

17 COMMISSIONER HANSON: Point Hope has responsive
18 borough government.

19 CHAIRMAN BETTISWORTH: Well, you know, under your
20 definition of terms we talk about the term responsive and
21 one of the modifiers of that is the term sympathy, is
22 sympathetic to. And I guess given that we go back to the
23 issue about distinct and distinguished from, the social-
24 cultural characteristics, that it is reasonable to think
25 that the government in Barrow on the North Slope Borough is

1 more or less responsive from a sympathetic point of view
2 than, say, this is again a comparative analysis, than say
3 a government in Kotzebue. You know, saying Kotzebue or a
4 NANA based -- NANA borough.

5 COMMISSIONER HANSON: Well, I think it's definitely
6 possible to expect a NANA borough or Kotzebue to be more
7 sympathetic, but my problem is the way the statement's
8 worded it's lack of transportation. It doesn't say.....

9 CHAIRMAN BETTISWORTH: And communication.

10 COMMISSIONER HANSON: Well, it just says does lack
11 of transportation preclude communication and exchange.

12 CHAIRMAN BETTISWORTH: It says does the lack of
13 transportation preclude the communication and exchange
14 necessary.

15 COMMISSIONER HANSON: And I have trouble saying that
16 the lack of transportation precludes it. I mean, another
17 element may -- there may be a problem because of the dis-
18 tinct culture, et cetera.

19 CHAIRMAN BETTISWORTH: So, in terms of facts, what do
20 we find?

21 COMMISSIONER ANDERSON: Well, if we answer this
22 exactly as it's written, I mean, we really can't find any-
23 thing.

24 COMMISSIONER HANSON: We do not find that lack of
25 transportation is causing a -- is precluding, underline

1 precluding.

2 CHAIRMAN BETTISWORTH: The facts are, is that there
3 is air service to them, to the area? It's no farther than
4 the villages within the North Slope Borough?

5 COMMISSIONER HANSON: That are receiving adequate
6 service.

7 CHAIRMAN BETTISWORTH: That are receiving adequate
8 services, then sympathetic services, responsive government.

9 COMMISSIONER ANDERSON: And they could provide the
10 telecommunication also, if they wished.

11 COMMISSIONER HANSON: So, though there may be very
12 valid points, under discussion it comes down to where we
13 think.....

14 COMMISSIONER ANDERSON: The way it's worded, only as
15 it's worded.

16 COMMISSIONER HANSON: Only with respect to that.

17 CHAIRMAN BETTISWORTH: I guess my concern is, is the
18 fact when we discussed Factor 2 we.....

19 COMMISSIONER HANSON: We dealt with impracticality.
20 We (indiscernible) precluded.

21 CHAIRMAN BETTISWORTH: Okay, I see.

22 COMMISSIONER HANSON: So there's a difference. There
23 was an option.

24 CHAIRMAN BETTISWORTH: Any other comments about Factor
25 3? Okay, with that, then, we would go on to Factor 4.

1 Restated: Will the detachment maximize or promote local self
2 government. And we'll take five minutes to review the notes
3 and citations.

4 (Off record)

5 CHAIRMAN BETTISWORTH: Reconvene to continue with the
6 consideration of Factor No. 4, will the proposed detachment
7 maximize or promote local self government. Essentially, as
8 we established in deciding to take up this factor, this is
9 presented to us as a function of the state constitution.
10 Ms. Anderson.

11 COMMISSIONER ANDERSON: Yes. Since this whole detach-
12 ment issue is concerning the formation of a new borough, I
13 would like to read from Article X of the Alaska Constitution.
14 (Indiscernible) was submitted by the Committee on Local
15 Government which shall research 31 hearings between November
16 15th and November 19th, 1955. An examination of the record
17 and minutes of those meetings shows clearly that the concept
18 that was in mind when the local boundary commission section
19 was being discussed that local political decisions do not
20 usually create proper boundaries and that the boundaries
21 should be established at the state level. The advantage of
22 the method proposed, in the words of the committee, lies in
23 placing the process at a level where areawide or statewide
24 needs can be taken into account. By placing authority in
25 this third party, arguments for and against boundary change

1 can be analyzed objectively. And then here's another point:
2 The basic purpose for creating the boundary commission and
3 conferring upon it the powers that it possesses was to
4 alleviate the type of situation that existed here where
5 there was a controversy over municipal boundaries -- and
6 that, I assume, could be borough boundaries also -- which
7 apparently could not be settled at the local level. As we
8 pointed out in the Fairview case, the concept that was in
9 mind when the local boundary commission section of the
10 constitution was being considered by the constitutional con-
11 vention was that local (indiscernible) decisions do not
12 usually create proper boundaries and that the boundaries
13 should be established at the state level. That's, again,
14 repeating the same thing, but I think this is of interest
15 on this particular question, or factor.

16 CHAIRMAN BETTISWORTH: Mr. Hanson.

17 COMMISSIONER HANSON: Well, I think there are, you
18 know, a few ways this question has to be looked at. One is
19 -- obviously, is detachment necessary for the formation of
20 a Northwest area borough, or Northwest Alaska borough in and
21 around Kotzebue. And we took -- that's one of the questions.
22 Another one is how does it affect self government of the
23 North Slope Borough. And then, of course, another question
24 we'll deal with separately from local self government is how
25 does it affect borough and municipal government across the

1 state generally. So I think the first two are relevant here.
2 And also I think it's relevant now it affects whether or not
3 another borough is formed, dealing with that first. We
4 asked several people during the hearings, there's a great
5 deal of testimony saying that if they didn't have the detach-
6 ment, if they didn't have the Red Dog tax base, then they
7 weren't going to form the borough. And that included the
8 mayor of Kotzebue, native corporation leaders and just
9 general people in the general public. There was quite a bit
10 of information in the record that sets forth very clearly
11 about the income, the tax base, of the NANA borough. And
12 refer to -- I think it was set out real clearly in the
13 Commissioner of Revenue's statement dated November 19th,
14 1985, in which he talks about the per capita revenue and the
15 fact that without Red Dog it's \$30,000.00 and Haines, the
16 next largest -- the next -- the borough with the next lowest
17 assessed value per capita was Haines, which was 48,000.
18 yet if Red Dog is added the tax base increases 2.5 times and
19 if we don't have it added it has a smaller tax base than
20 Haines but a more expensive area and possibly more services
21 needed when you look at the NANA area as opposed to Haines.
22 But a point of information for the record, I'm trying to --
23 my memory is being taxed today, is Haines the one-third
24 class borough still?

25 CHAIRMAN BETTISWORTH: Yes.

1 COMMISSIONER HANSON: Yes. So its services are very
2 limited as opposed to the NANA -- formation of a borough in
3 the NANA area. So obviously without Red Dog it has a very
4 small tax base and one that many people said is inadequate.
5 I'd point out that the head of the Chamber of Commerce in
6 Barrow further said that even with Red Dog the tax base
7 wasn't going to be adequate, so obviously, using that logic,
8 without it there's no chance. No chance. The -- there's
9 so much information on that, I'll drop that at this point,
10 but the record is full of information on the tax base ques-
11 tion. One thing that was brought up by the respondent,
12 however, is alternative tax bases, taxing the port, taxing
13 the road, and we can discuss that more, but I think that was
14 fairly adequately answered in the various responses that went
15 back and forth between petitioner and respondents. We can
16 discuss that more if it's felt necessary. The impact on the
17 North Slope Borough, as far as maximizing local government,
18 something we'll get into more detail on later, but obviously
19 we were talking about a small fraction of their tax base at
20 this time and I think we'll talk about that more, in greater
21 detail. Go ahead.

22 CHAIRMAN BETTISWORTH: Do you have a -- now does the
23 North Slope's tax base fit into the consideration of maxi-
24 mize and promote local self government?

25 COMMISSIONER HANSON: Just from the standpoint that

1 if you remove that tax base that you're doing detriment to
2 -- if you were doing significant detriment to the North
3 Slope local government, that certainly would be a balancing
4 factor on whether it is appropriate, perhaps, helping an-
5 other self government. So it has that relevance.

6 COMMISSIONER ANDERSON: We have that coming up in
7 Factor 7.

8 COMMISSIONER HANSON: There was another concern on
9 maximizing local self government, and I think that's what
10 we talked about under transportation and couldn't get a
11 handle on under that particular factor. And that is that
12 the people in the area want to have control over their own
13 watershed, their own subsistence area, what happens to the
14 Red Dog Mine, and want to have a responsive local government.
15 They're outside the borough, they don't have a legal say as
16 it is now, but detaching and including that area which is
17 vital to them and part of their watershed in the borough,
18 in a new borough, would definitely be maximizing local
19 government for them in that respect. Another consideration
20 is whether or not the transition period, in establishing a
21 new government, and I think we're going to deal with that
22 later, whether or not that transition period would leave
23 the detached area without services or planning to the detri-
24 ment of local government. I guess we'll be setting that
25 aside and dealing with that later. I guess I'd also like

1 to make reference to the resolution passed by the North
2 Slope Borough Assembly on August 26th, 1985. It's also men-
3 tioned in the text here in some of the documents. It points
4 out on the first page -- this is the one that was actually
5 signed. There were several versions that seem to be in the
6 record. This was signed July 2nd, 1985, adopted August
7 6th (sic). It has a bunch of whereases. One is: Whereas,
8 that territory -- referring to the territory of the proposed
9 detachment -- is critical to the economic viability of the
10 proposed NANA Region and borough government -- and though
11 this petition was just setting up a vote on the issue of
12 detachment and only referred to the 344,000 acres rather
13 than to the 2.1 million, it does show a conceptual agree-
14 ment to a certain extent by the North Slope Borough Assembly.
15 The economic tax base provided by the Red Dog area is -- it
16 is critical to the formation of the NANA area government,
17 which agrees with what the leaders in the NANA area were
18 telling us. There are many, many places in the record where
19 this statement was made. Mr. Schaeffer (ph) makes the
20 statement on April 23rd, 1985, in his letter to the mayor
21 of the North Slope Borough, which is Attachment -- North
22 Slope Borough Attachment SS: The development of a borough
23 in the region has long been a goal of NANA but without the
24 tax base provided by the Red Dog project that goal will be
25 unattainable. I think if we look hard enough we'll find

1 just about every leader at one time or other making that
2 assertion, and the facts seem to be -- tax base figures seem
3 to definitely back that up. I guess I'd ask the commis-
4 sioners if there's need for more discussion on the alterna-
5 tive ways of providing a tax base.

6 COMMISSIONER ANDERSON: I don't think so, right at this
7 particular question. Perhaps later.

8 CHAIRMAN BETTISWORTH: I guess with respect to the
9 alternative pay, I've never quite understood the -- in lieu
10 of taxes paid on this to be a financed road and port, and
11 I wonder if -- Gordon, could you help us? Describe to me
12 how that would work, if it did, and, if not, we can come
13 back and maybe Wilson can help with it.

14 MR. HARRISON: Well, I can describe only generally the
15 concept of payments in lieu of taxation, but I don't have
16 any specific knowledge of the aid agreement and why it was
17 excluded, anything like that. So I guess I can't really be
18 much help.

19 CHAIRMAN BETTISWORTH: I think that -- Mr. Hanson, do
20 you understand the concept? I mean, I understand the con-
21 cept, but it seems to me the record -- in fact, Mr. Smith's
22 testimony, indicated that that couldn't happen, given the
23 way the agreement -- the contract with A.D.A. or the bonds
24 with A.D.A. were set up. And I guess I have a problem with
25 fully understanding just exactly how the (indiscernible).

1 This is nto tne kind of thing like, for instance, a private
2 developer going down and getting an A.D.A. loan to build a
3 building, it is then taxable by a local government entity.
4 Maybe you can.....

5 COMMISSIONER HANSON: It isn't a private property, as
6 I understand it; it's a public property, and a user pays a
7 toll or a tax for its use. I guess it would be called a toll
8 or a fee for its use, that goes directly to A.D.A., as I
9 understand it, and thus -- I'm giving you generally my
10 impression, and perhaps we can talk more about this tomorrow.
11 We have the A.D.A. documents in the files that I have looked
12 at once. But, as I understand it, thus it isn't available,
13 because of the way it was set up and the way the legislature
14 set it up, as a tax base. But maybe we should go with that
15 and ask the staff to give us a report tomorrow on that and
16 finalize our findings on this.

17 CHAIRMAN BETTISWORTH: Okay, I've made a note. I
18 guess 40 -- actually there's a whole group of -- well, in
19 any event, their argument is what to form this borough here
20 would be at the detriment of the North Slope Borough and
21 that, in fact, there's occasions where that's going to occur
22 in several of the boroughs throughout -- communities through-
23 out the state. And that -- it gets back to this later factor
24 we're going to talk about, I think it's number 8, where this
25 issue of whether the proposed tax will strengthen or weaken

1 long-term stability of all boroughs, and actually that's
2 the argument on the part of the North Slope Borough here,
3 is that, in fact, our action, rather than maximizing self
4 government will actually be to the detriment of self govern-
5 ment because it puts their boundaries at risk. The citation
6 on page 45 goes on to point out that, in fact, there is local
7 self government in the area being provided by the North Slope
8 Borough. I guess the real critical definition here, then,
9 gets to be what is self government. And I guess to the point
10 that we have said people that inhabit the area are the folks
11 who are the users, and those users are generally NANA region
12 people from the areas of Noatak, Kivalina and Kotzebue, self
13 government would then mean better able to be governed by
14 those -- by that group of people. And I think that that
15 really is the distinction here, is that the people that are
16 really affected are the people in Noatak and Kivalina, and
17 not the people in Point Hope and Barrow, for sure.

18 COMMISSIONER HANSON: Aside from the economic viability
19 argument.

20 CHAIRMAN BETTISWORTH: Right.

21 COMMISSIONER HANSON: That's totally separate.

22 CHAIRMAN BETTISWORTH: Right. Right. Are there any
23 other comments about Factor No. 4?

24 COMMISSIONER HANSON: Well, I'll just mention self
25 determination. That's a funny one. I agree with your

1 interpretation, but I think we should also listen to Nome.
2 It can be looked at from the other side too. The North
3 Slope Borough voters determining their future and the future
4 of part of the land within their boundary, of course, have
5 made a vote that they don't feel this area should be
6 detached. I say that mainly for the record. I feel a more
7 direct self determination concept of people in Noatak and
8 Kotzebue far outweighs this other interpretation of the North
9 Slope Borough self determination.

10 COMMISSIONER ANDERSON: These people you just men-
11 tioned are really going to feel the impact of.....

12 COMMISSIONER HANSON: (Indiscernible - simultaneous
13 speech).....

14 COMMISSIONER ANDERSON: Right. I can imagine that they
15 are concerned very greatly about.....

16 COMMISSIONER HANSON: They have not had the opportunity
17 to vote.

18 COMMISSIONER ANDERSON: That's right.

19 CHAIRMAN BETTISWORTH: Is there any other comment on
20 Factor No. 4?

21 COMMISSIONER HANSON: Do you want to wait to make your
22 summarization on that, or.....

23 CHAIRMAN BETTISWORTH: I think the factors -- or the
24 facts are fairly well stated at this point. Wilson, there
25 was a question that came up on the business of the A.D.A.

1 loan, the A.D.A. bonding up the road, and the issue that
2 the North Slope Borough raised that that actually provides
3 a tax resource to a potential NANA borough. And our concern
4 was how to -- and the counter to that was that Jeff Smith
5 stated that no, that's not possible because of the way in
6 which those A.D.A.'s -- A.D.A. bonds and that A.D.A.
7 financing is structured. I don't understand that, and I
8 don't know whether you do, but at least we thought we might
9 ask to see if you had an idea of what the factors there.....

10 SPECIAL COUNSEL CONDON: No.

11 COMMISSIONER HANSON: We'd like to discuss it again
12 tomorrow morning.

13 CHAIRMAN BETTISWORTH: Okay. Any more comments on
14 Factor 4?

15 COMMISSIONER HANSON: I'll just make a quick summariza-
16 tion. It appears that due to the predominance of the
17 evidence, which seems to indicate detachment is necessary
18 for the Northwestern area -- proposed Northwestern area
19 borough to be viable, and thus would be maximizing govern-
20 ment, that we will look at the other option of the taxing
21 the road tomorrow, that self determination factor for the
22 peoples most affected by what happens in the detachment area
23 is very clear, and that that would refer to Noatak, Kivalina
24 and Kotzebue primarily, and they have no self determination
25 now, we would be maximizing their local self government if

1 the detachment goes through and the borough is formed. The
2 same is true of those people having some control over their
3 watershed and what happens in it, which also comes down to
4 they're outside the government now that has that control.
5 If it was detached they would be inside the government that
6 had the control. But we say this, still being aware that
7 there is a certain financial -- minor financial impact on
8 the North Slope Borough (indiscernible - papers rattling)
9 factor in more detail. And we recognize how the North Slope
10 Borough voters feel and still come to this conclusion, that
11 the detachment would maximize local self government.

12 CHAIRMAN BETTISWORTH: I guess this whole factor is
13 assuming that there would be a NANA region borough formed.

14 COMMISSIONER HANSON: Since the petition conditions
15 the detachment on that.

16 CHAIRMAN BETTISWORTH: Okay, Factor No. 5: Will the
17 proposed detachment facilitate resource development in north-
18 west Alaska. Let's take five minutes to review these cita-
19 tions.

20 (Off record)

21 CHAIRMAN BETTISWORTH: Reconvene and discuss the
22 issue number five -- Factor No. 5: Will the proposed detach-
23 ment facilitate resource development in northwest Alaska.
24 What I'd like to do is go through the citations, the brief
25 in support of the petition at pages 30 and 31, the

1 petitioner discusses the issue that the detachment and the
2 consequent formation of a NANA regional borough would provide
3 sufficient development of the mine and if you coordinated road
4 and transportation system and the mine development that
5 you've got all those activities under one governmental
6 agency as opposed to two, where they were under -- the mine's
7 under the North Slope Borough and the road and transportation
8 system, majority of which was under the -- under NANA or
9 unorganized borough. They talk about a unified approach and
10 comprehensive, consistent planning and regulation for the
11 entire region. The opposition brief submitted by the North
12 Slope Borough on pages 44 and 45 argues that there is already
13 regulation up there, the -- they talk about the time lag
14 between the formation of the borough and the detachment,
15 discuss the issue of uncontrolled development. I guess one
16 of the responses to that is that -- their citations reference
17 the fact that there are 12 other permitting agencies involved
18 and the North Slope Borough is really only one. And again
19 on page 52 in their summary of findings they basically say
20 there is no correlation between the success of the Red Dog
21 Mine and detachment of the area from the North Slope
22 Borough. The NANA Region brief essentially, at pages 5 and
23 6, again deals with the issue of the unified approach, the
24 planning and regulation, for the entire region. That's in
25 there supporting the petition, the reply to the brief --

1 the opposition brief. Actually, those citations deal more
2 with the issue of whether -- when the detachment -- when the
3 original boundary was formed, whether the commission was
4 aware of the Red Dog and other mineral resources in the area.
5 I guess those are the findings, the facts, as described.
6 I guess I would agree to some extent with the borough's
7 opposition brief which says there really hasn't been a
8 demonstration that the Red Dog or any of the other resource
9 development in the area is dependent upon this detachment
10 and consequent formation of a new borough. That's more of
11 a finding.

12 COMMISSIONER HANSON: I guess I'd add to that. I think
13 it is clear. I mean, the question is will the proposed
14 detachment facilitate resource development in Northwest
15 Alaska. In the nuclear sense, resource development's going
16 to take place whether or not the detachment takes place, is
17 the impression we've been given about Red Dog and other
18 resource development, and I think that's fact. So I think
19 we're down to a much more minor, or a lesser, consideration,
20 and that's will it facilitate resource development. And the
21 main things we seem to have are one side that it will. If
22 we detach and the borough is formed, that's the NANA 12/18
23 response, states the unified approach to such -- we'll have
24 a more unified approach. A unified approach to such matters
25 as land use planning, regulation, environmental protection,

1 and local government permitting, will serve the public
2 interest better by providing for comprehensive and con-
3 sistent planning and regulation of the entire region. They
4 also note other things about the need of not having to deal
5 with two governments, dealing with one, and going just to
6 Kotzebue rather than going to Barrow too for permits and for
7 coordination of the types of services that might be used
8 across the borough line which the detachment area remaining
9 in the North Slope Borough causes, across the development
10 area. That's on one side. That that unification would, in
11 fact -- having one instead of two governments would, in
12 fact -- could be said -- would facilitate resource develop-
13 ment to some extent. I'm not sure it's a -- it may be more
14 a convenience factor than a critical factor, though. On the
15 other side, though, is what the borough has brought up about
16 transitions and whether or not during the transition with
17 no regulatory authority there possibly -- or the new borough
18 having set up a regulatory authority right away, that that
19 is also a consideration. I guess I come down to this is more
20 a neutral, with maybe it would facilitate it a little bit
21 just because of the coordination of government services, but
22 not very critical.

23 CHAIRMAN BETTISWORTH: Ms. Anderson.

24 COMMISSIONER ANDERSON: Well, perhaps if it were
25 detached the interested people in a new borough might

1 promote more resource development because of financial
2 reasons and others.

3 COMMISSIONER HANSON: You mean if it was part of their
4 borough and they were.....

5 COMMISSIONER ANDERSON: Yes.

6 COMMISSIONER HANSON:getting the tax base.....

7 COMMISSIONER ANDERSON: Yes.

8 COMMISSIONER HANSON:they might want a work
9 on.....

10 COMMISSIONER ANDERSON: Their interest might be
11 greater than the other borough would have.

12 COMMISSIONER HANSON: Since they're also the land
13 owners, to a certain extent, though there's state land there
14 too. I imagine to some extent the same argument could be
15 said for being in the North Slope.

16 COMMISSIONER ANDERSON: Yes, I'm sure it could.

17 COMMISSIONER HANSON: I do want to clarify one thing.
18 In talking about the North Slope's argument on transition
19 period, in bringing it up, I want to bring it up as a con-
20 sideration, not a finding that during the transition period
21 if the NANA Borough is formed there won't be adequate govern-
22 ment services. It's something the North Slope Borough claims
23 should be a consideration, but we have seen -- not meaning
24 to document that there won't be adequate coverage as the new
25 borough starts, (indiscernible) that they would have.

1 (Indiscernible) very concerned about (indiscernible - papers
2 rustling). I just wanted to clarify that.

3 CHAIRMAN BETTISWORTH: That will be taken up under 15.
4 Well, are there other comments with respect to No. 5?
5 No. 6: Will the proposed detachment encourage efficiency
6 in provision of local government services to the proposed
7 detached territory. We'll take five minutes to consider the
8 citations, then.

9 (Off record)

10 CHAIRMAN BETTISWORTH: We'll start again. We'll take
11 up consideration of Factor No. 6: Will the proposed detach-
12 ment encourage efficiency in the provision of local govern-
13 ment services to the proposed detached territory. I guess
14 I will start again by going to the briefs. The brief in
15 support as submitted by the petitioner basically talks about
16 the practicality issue, the more practical to provide muni-
17 cipal service to the territory proposed for detachment from
18 the borough serving the NANA region rather than from the
19 North Slope Borough. That assumes that the transportation
20 center would be Kotzebue as opposed to Barrow. I guess --
21 they also go to point out that a borough in the NANA region
22 could more effectively execute the planning powers
23 because they're really dealing with geography similar, in
24 similar areas, the drainages and that kind of thing. If you
25 go to the opposition brief, page 16, they just reiterate what

1 they -- what they really say is that the North Slope Borough
2 did not respond to this -- directly to this question. And,
3 in fact, as you go through the North Slope Borough's
4 response and even the citations that they have listed for
5 us it's really difficult to see how they dealt with that
6 issue at all. And the NANA Region, in their comments on this
7 issue, I'd like to point out it says: The major access to
8 the detachment area will be (indiscernible) road comprised
9 of the DeLong Mountain transportation system. The -- I guess
10 it needs to be pointed out, it does not connect directly to
11 Kotzebue. It does say that most persons to be served in the
12 detachment area now have and will continue to have economic
13 and social-cultural ties to the NANA Region rather than the
14 North Slope Borough, and we're talking about persons to be
15 served would be people at the proposed Red Dog Mine and those
16 people who were actually using the area. I guess that's the
17 major citations from the record. Any comments from the com-
18 missioners?

19 COMMISSIONER ANDERSON: You pulled out the same things
20 I did, so you've already made the comments.

21 COMMISSIONER HANSON: Mr. Chairman, I'll say I also
22 agree with the citations. In thinking about this, when
23 obviously there are so many obvious things that make it appear
24 more efficient: Because it's closer, because they're the
25 same people, because other governments have already decided

1 to serve the area, the regional transportation system set
2 up around Kotzebue for most of this area.....

3 COMMISSIONER ANDERSON: Statewide transportation.

4 COMMISSIONER HANSON: A statewide transportation system
5 is set up around this area, the fact that -- what we talked
6 about already as far as cumbersome government when you have
7 two entities rather than one serving the same area -- there's
8 been no real estimate of cost to the North Slope Borough
9 to bring services to the detachment area as opposed to
10 Kotzebue. Several example factors, such as the cost of air-
11 plane rides to the area from NANA versus -- from Kotzebue
12 versus from Barrow, which have been pointed out in the
13 record, are enough to give pretty good weight to make a
14 reasonable assessment that it's going to be much more
15 efficient if the area is detached, part of the NANA area. The
16 only thing I could come up with in thinking very hard about
17 this one is the transition period element. And as you set
18 up a government it might cost a little bit more to set up
19 your services that you start up, but that's just such a
20 transitory consideration that it barely bears mention when
21 you look at the overall long-term efficiency of government
22 providing services to the area.

23 CHAIRMAN BETTISWORTH: I would guess that that --
24 whether the detachment occurred or not, that inefficiency
25 in start-up is going to be there.

1 COMMISSIONER HANSON: Right. As far as the -- if you
2 have a new borough.

3 CHAIRMAN BETTISWORTH: Mr. Condon.

4 SPECIAL COUNSEL CONDON: I'd just like to make one
5 legal point for you to take this in mind as you consider this
6 factor. That is the North Slope Borough's failure to -- you
7 should not look at the North Slope Borough having failed to
8 address this consideration; their position here is a legal
9 one. They probably would not have a lot to say, but they
10 might, and their consideration here is a legal one and that
11 legal position has been expressed in the memorandum of law
12 which they filed with you while you were in your hearings
13 on the North Slope -- I don't know whether it was when you
14 were in Barrow or elsewhere, but I think it was on the day
15 or in Barrow that the memorandum was filed with you and the
16 legal arguments which they make are carefully stated in the
17 first portion of that memorandum. We did not cite to that
18 memorandum in the work papers that we gave you here. I can
19 give you more copies of it if you want. And I simply note
20 that that's a legal dispute which, if you go ahead and grant
21 the petition, is -- and the North Slope Borough decides that
22 it is not going to accept the -- it and go ahead and litigate
23 it, this will be a question -- a legal question which will
24 be resolved by the courts, I'm sure.

25 CHAIRMAN BETTISWORTH: Could you summarize the legal

1 question?

2 SPECIAL COUNSEL CONDON: Well, if there's any legal
3 argument that they make is that the regulations, as they are
4 -- the regulations that govern detachments, don't address
5 comparative efficiency, and that stepping over and looking
6 into the annexation regulations or something like the annex-
7 ation regulations for guidance is simply -- there's no just
8 -- there is no legal justification, even if there's a policy
9 justification for doing that. And that if you want to enter-
10 tain those kinds of considerations you know how to do it,
11 you can change your regulations and -- so that you just need
12 to know that that's -- that argument is there. The counter
13 argument to that is you certainly do have the standards,
14 which are set forth in your own regulations, in factors --
15 they aren't -- clarify words, factors 1, 2, 3, which go to
16 the determination of the best interest standards. You reserve
17 the right to consider other items. The petitioner came in
18 and put this item on the table, the North Slope Borough had
19 plenty of time to address it, you retained flexibility and
20 it was legal to retain that flexibility. And that's -- but
21 those are the arguments, and a -- if that's the policy
22 decision you want to adopt, if you want to look at compara-
23 tive efficiency here, you don't want to amend your regula-
24 tions in that regard at this time, that's defensible, but
25 I'm not going to guaranty victory. I think you can do it,

1 but I'm not going to guaranty it.

2 CHAIRMAN BETTISWORTH: In fact, what you're saying
3 applies to all these regulations beyond number 3 -- with
4 these standards beyond number 3.

5 SPECIAL COUNSEL CONDON: Well, technically, that's true
6 with respect to many of them. The North Slope Borough has
7 blown a louder bugle than anybody else, so they can hardly
8 complain. When people are talking about the adverse financial
9 impact on the North Slope Borough, you don't see them com-
10 plaining about your consideration of that, and that's
11 beyond 1, 2 and 3. This one hurts, and so they'll -- you
12 expect them to complain.

13 COMMISSIONER HANSON: Mr. Chairman, maybe a clarifica-
14 tion here, has to do with just the wording that was used when
15 we noted that the North Slope Borough's brief in opposition
16 had directly countered the arguments. And I think part of
17 the point here is just that that doesn't necessarily demon-
18 strate anything in and of itself.

19 SPECIAL COUNSEL CONDON: They countered it with a
20 memorandum of law.

21 COMMISSIONER HANSON: Correct. And so I think what
22 we have to do is -- I think the evidence on this one is
23 pretty overwhelming in any case, and if we can make a finding
24 acknowledging that there isn't a lot written on this record
25 by the North Slope Borough.....

1 CHAIRMAN BETTISWORTH: Any other comments with respect
2 to No. 6? All right, then, we'll go on to No. 7. Take five
3 minutes.

4 (Off record)

5 CHAIRMAN BETTISWORTH: We'll take up the issue of
6 Factor No. 7. Factor No. 7 states: Will proposed detach-
7 ment adversely affect the present and future finances of the
8 North Slope Borough. Mr. Hanson.

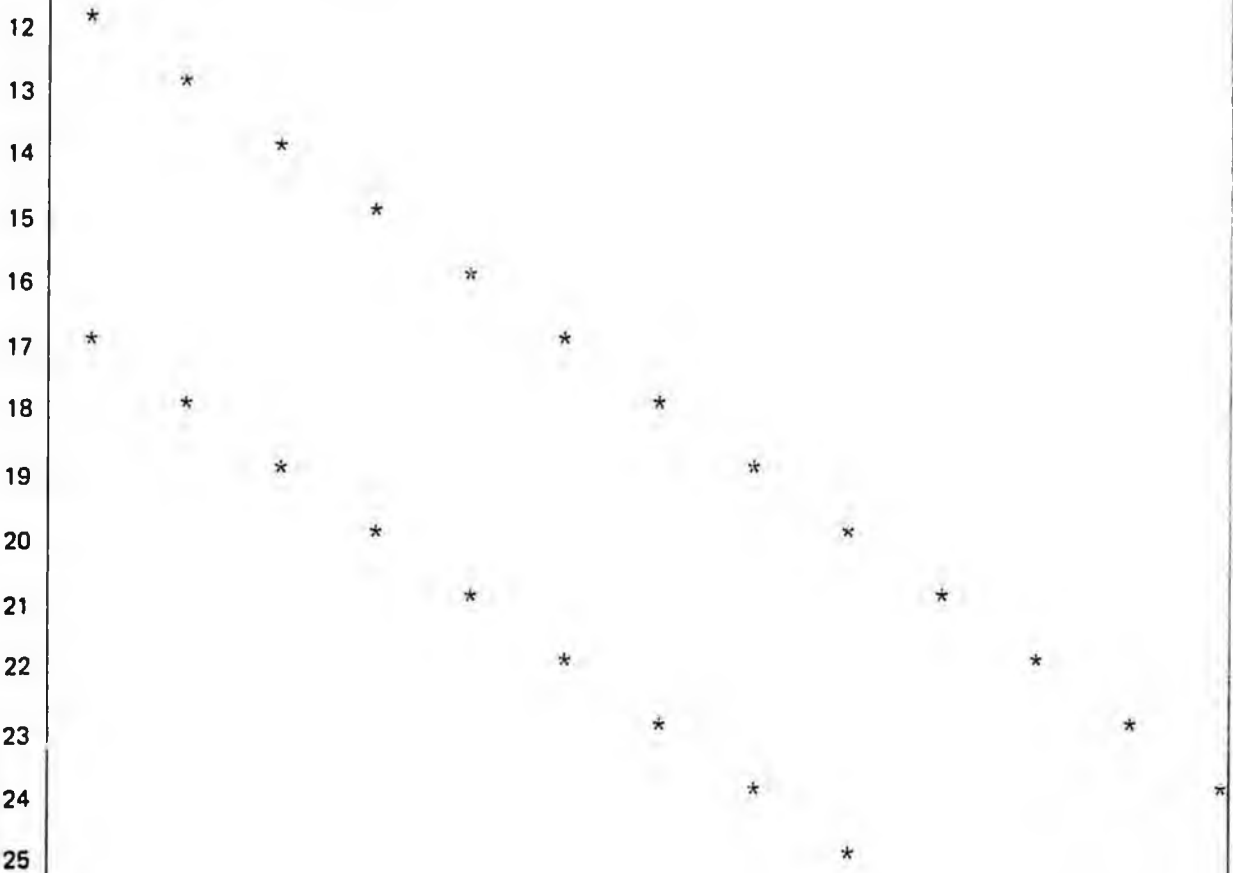
9 COMMISSIONER HANSON: Yes, I've done a little bit of
10 research during the past week, just going back over the
11 testimony and what was said, there was especially the
12 Anchorage hearing, and what was handed to us. There's quite
13 a bit that relates to this question. There were three or
14 four elements that were brought up, or items, of how the
15 North Slope Borough's finances might be impacted. One was
16 their ability to repay bonds and their bond rating. A
17 second one is general erosion of their tax base and loss of
18 tax base. Third was the precedent, the fear that one detach-
19 ment would lead to taking of and detaching of more
20 (indiscernible) taxation areas of the North Slope Borough.
21 I'd just like to briefly -- I can't find my fourth note right
22 now. But of those three, briefly relate to the presentation
23 given by Mr. James Sharp, the director of administrative
24 finance of the North Slope Borough. He gave some valuable
25 information and very good testimony, but he made it very

1 clear that the bonds, the existing bonds, would be paid off,
2 would be paid off I believe his date was 1996, regardless
3 of whether the detachment takes place or not, and that the
4 bonds were not based upon revenue from this detachment area,
5 they were based upon the oil revenue. And I think, being
6 he is who he is, that particular issue as far as the meet-
7 ing bonds, is pretty much put to bed by his own statements,
8 which he was very direct about. His concern had to do with
9 two things One, the tax base and that the North Slope
10 Borough might have a tough time of it in the future,
11 especially after the mid-90's, and he gave us projected
12 property values and how they're going to go down because of
13 decrease in oil revenues. And he indicates that 2005 the
14 Red Dog Mine area, that's 20 years in the future, could
15 become more significant in the borough tax base. However,
16 he admitted that -- or told us that there are certain
17 uncertainties about new oil developments that may take place
18 and add to the tax base which were not taken into considera-
19 tion at this time and could not be. Also, in looking at
20 other factors, figures put in other parts of the record,
21 I find that this was probably a fairly conservative case pre-
22 sented to us. In looking at Legislative Digest from December
23 30th, 1985, article entitled Immunity from Revenue Declines
24 North Slope Borough's Soaring Oil Tax. This was attached
25 to the testimony of Willie Hensley, which he also gave in

1 (indiscernible) -- makes reference to almost 10 billion --
2 an addition of almost 10 billion to North Slope industrial
3 investments over the next ten to fifteen years, which will
4 double the North Slope Borough's tax base. That's a quote
5 from the article. Now, I tried to look at the figures that
6 Mr. Sharp gave us, and I do find that there is some increase
7 of today's \$12.8 billion up to about 15.8, which is a
8 \$3 billion increase over the same period, the article says
9 a 10 to 15 billion dollar increase. I'd just point that out
10 to the commission. I think we have probably a conservative
11 case presented by Mr. Sharp. I'd also mention one of the
12 documents provided to us in the record, a letter sent to
13 Mr. Hetter (ph) November 18th, 1985, by the Commissioner of
14 Revenue, Mary A. Nordell (pn). It states that within the
15 next -- page two: Within the next 20 to 25 years no other
16 basic industry is projected to come on line to supplement
17 the oil and gas industry; however, the key to sustaining and
18 expansion of industry is present aggressive competitive lea. e
19 offerings of the federal government and the state govern-
20 ment. My point there is that there's an indication in her
21 memo that there's an expectation that there are other
22 sources of oil revenue coming on line that are fairly
23 significant. In looking at -- so on the tax base question
24 there is also information given to us in a Mr. -- Government
25 Financial Associates gave to us in Anchorage also, showed

1 us the assessed value of Red Dog will be 1.27 percent, and
2 the tax revenue is 1.25 percent when you have tax revenues
3 of 3.6 million a year of assessments, assuming assessments
4 in 1988 and 1989 and tax rates '85 through '88. I only
5 point these out, that it appears that the Red Dog is a small
6 part of the tax base and that there's information going to
7 show that the oil tax base may indeed grow in the future,
8 may indeed grow (indiscernible) maybe the opposite possi-
9 bility is always there. So I think we're dealing with a
10 minor tax base change. The third factor.....

11 (End of tape)



MR. HANSON, CONTINUED:

1Borough quotes. Both Mr. Sharp's testimony in the primary
2 documents was that -- quote, the real fear was, the main
3 threat, was not this area being detached, but was additional
4 areas that had to, quote -- I think it was E.F. Hutton --
5 theoretically, we conclude that it can diminish the borough's
6 taxing authority in areas of the borough which are economically
7 more meaningful to the borough. So, I'll read this paragraph
8 again. It's page two of the E.F. Hutton letter, November 6,
9 1985, given to Mr. James Sharp. It reads, a far greater con-
10 sequence to the North Slope Borough than the potential loss
11 of \$33.26 million in tax revenues over ten years, is the idea
12 the state boundary commission theoretically may conclude that
13 it can diminish the borough's taxing authorities in areas of
14 the borough which are economically more meaningful to the
15 borough. The Standard & Poor's, its letter to James Sharp on
16 November the 18th, 1985, it points out: I would offer the
17 continued loss of assessed valuation because of economic
18 reasons, deannexation proceedings, or detachment by other
19 agencies of authorities would generally be considered detri-
20 mental to the ability of the borough to meet its commitments
21 or general obligations. The main point of all this is that
22 they're all -- the real concern with the financial institutions
23 seem to set forth is the possibility of additional annexation
24 of more meaningful areas of the North Slope Borough. There
25 is a suggestion by -- I believe it was general government

1 services (indiscernible), but its main point was that the
2 best way to eliminate this concern is to assure that the
3 boundary commission uses criteria and chose a sensitivity to
4 the bond ratings, and the financial status and basis of a
5 borough in considering detachment proceedings, and I guess I
6 personally feel that we're definitely doing that in this pro-
7 ceeding, and that it would serve to be a good example of
8 concern to not foresee or being -- taking irresponsible action
9 on cutting off a borough's more -- quote, more meaningful
10 tax base. The other point I'd like to make -- I can't put my
11 hands on it immediately -- but is in the resolution that the
12 borough passed. They had a statement on the July 2nd resolution
13 they passed for setting up the vote on deannexation of
14 244,000 acres -- they had a statement saying, this in no way
15 is construed to be or seen as a precedent for further de-
16 annexations of this borough. This is a unique situation.
17 That's a paraphrase, not a quote. That's

18 CHAIRMAN BETTISWORTH: Any further comments?

19 COMMISSIONER HANSON: That's the comments I have.

20 CHAIRMAN BETTISWORTH: I guess one of the -- the way
21 this factor is stated is, will the proposed attachment adverse-
22 ly affect the present and future finances of the North Slope
23 Borough. In fact, what we've seen is the revenue side of this
24 picture. We haven't looked at the cost side of the picture.
25 There hasn't been any testimony submitted that -- what it would

1 cost to deliver services to the region, either currently, in
2 the near future, or long term, and we'll get back to this
3 business of efficiency here. We did make some comment,
4 although there's still more members to back it up, about what
5 the cost of delivering these services to the borough would
6 be -- or to the region would be.

7 COMMISSIONER HANSON: I guess I -- well

8 CHAIRMAN BETTISWORTH: Do you want to make an observation?

9 COMMISSIONER HANSON: Well, the one thing that -- the one
10 fact that still stands is -- your point is well taken in that
11 the -- of the three factors I mentioned, the one fact that
12 still stands is the borough's tax base would be diminished
13 by -- the figure was 1.27 percent. They factor this -- if
14 you factor in the cost of services to the detached area in the
15 future, that should have some kind of neutralizing affect on
16 the lost tax base though it's -- though we do not have the data
17 to say to what extent. Is that a correct statement?

18 COMMISSIONER HANSON: I wonder, can -- in Staff's reading
19 of the data that's before us in some of the volumes is there
20 anything in here that talks at all about the cost side? Is
21 there anything that we could use as a comparative? Has there
22 been any submitted by the borough that talks about what its
23 cost of providing services at Prudhoe are?

24 SPECIAL COUNSEL CONDON: I have not seer any at all.

25 CHAIRMAN BETTISWORTH: We could -- we could perhaps have

1 this as one of the additional questions we want to check back
2 on tomorrow morning, perhaps just to see if there -- I seem
3 to recall something, but not specifically, on the cost of
4 services to the detached area. I think there was something
5 on the cost of services to Prudhoe.

6 COMMISSIONER HANSON: The -- the assumptions are that the
7 only services to be provided, although this may not be
8 correct, is that -- is planning and zoning. I do know that
9 the Borough does provide utility services to the Prudhoe
10 Bay area

11 CHAIRMAN BETTISWORTH: Uh-huh.

12 COMMISSIONER HANSON: whether they would be required
13 to do similarly at Red Dog, I'm not sure.

14 CHAIRMAN BETTISWORTH: Obviously, this petition at
15 present is that they wouldn't. And considering this question,
16 if we're looking twenty years in the future, we're considering
17 aversion of tax base ten to twenty years away, I guess we have
18 to keep open what kind of services might be made at that
19 point.

20 SPECIAL COUNSEL CONDON: Mr. Chairman, with regard to
21 your question about what's in the record, I do recall that
22 the petitioner on NANA submitted testimony by the present,
23 or former mayor of the North Slope Borough dealing with the
24 question of the cost and burdens of providing services to the
25 service area (indiscernible), as I recall, and that is an

1 attachment or a footnote, or something somewhere, and

2 CHAIRMAN BETTISWORTH: Yeah, could we

3 SPECIAL COUNSEL CONDON: Yeah, I'm trying to search that
4 out; however, it -- but there has been no structured, or
5 focused discussion on the cost that might provide -- the
6 cost that might be involved in providing services to the --
7 to this future development, and there's still -- there hasn't
8 been any fact, any discussion -- or focused discussion on
9 what services might be provided there. Okay. This is an
10 attachment to the comments of NANA region corporation sub-
11 mitted January 3rd, and it is an affidavit filed by Eugene
12 Brower of -- dealing -- in the case of Matanuska/Susitna
13 Borough, Municipality of Anchorage, Kenai Peninsula Borough,
14 and Fairbanks/North Slope Borough, Plaintiffs, v., J.S.
15 Hammond, Governor, Lee McNamary (ph.), Defendants, and North
16 Slope Borough, Defendant Intervenor, and it discusses borough
17 services at Prudhoe Bay. It discusses negative impact of
18 fiscal year 1982, 1983 budget reduction, and so on. And I
19 don't know if you have it. It's

20 CHAIRMAN BETTISWORTH: Yes, I've got a copy of that.

21 SPECIAL COUNSEL CONDON: You've got it now? Okay.

22 CHAIRMAN BETTISWORTH: I guess the difficulty with this
23 affidavit is that it doesn't discuss just those costs at
24 Prudhoe. It discusses what the operational budget for the
25 North Slope Borough is generally, and talks about what the --

1 what a per capita reduction count meant to them with respect
2 to revenues, and what they had to cut.

3 SPECIAL COUNSEL CONDON: I didn't mean to suggest it was
4 relevant to your question

5 CHAIRMAN BETTISWORTH: Yeah.

6 SPECIAL COUNSEL CONDON: but it's material in the
7 record, you know, on that general subject, and that's all I
8 could recall.

9 CHAIRMAN BETTISWORTH: Any comments on the part of the
10 Commission? I guess really what the problem is, is -- and I
11 think we might want to sleep on this one -- is there are --
12 on the cost side -- we don't have enough information on the
13 revenue side. There is some information, and it seems like
14 most of the impact is (indiscernible) concurrent. And I
15 think really we need to -- with respect to this factor, we
16 really need to look at it in terms of exactly that -- what
17 is the present impact, and I guess -- you know

18 COMMISSIONER HANSON: Any present or future.

19 CHAIRMAN BETTISWORTH: Yeah, and then the other side of
20 that is the future impact. Okay. I don't have any other
21 comments on this.

22 COMMISSIONER HANSON: All right. I guess the only -- it
23 seems that the meaning that we're trying to measure is a --
24 or rather for this question -- the tax base loss, the minor --
25 very minor tax base loss. First, it's the cost that's

1 possible -- cost of services, or how that factors out. It
2 seems like the other concerns are pretty much taken care of
3 except for the tax base question. Is that your

4 CHAIRMAN BETTISWORTH: Right.

5 COMMISSIONER HANSON: observation?

6 CHAIRMAN BETTISWORTH: Okay. Is there any other comment
7 with respect to factor seven?

8 COMMISSIONER ANDERSON: No.

9 CHAIRMAN BETTISWORTH: Factor number eight: "proposed
10 attachment strengthen or weaken long-term stability of all
11 borough boundaries and borough finances throughout Alaska."
12 Let's take five minutes to review the citations here.

13 (Off record)

14 CHAIRMAN BETTISWORTH: Okay. We will reconvene to con-
15 sider factor number eight: will the proposed attachment
16 strengthen or weaken the long-term stability of all borough
17 boundaries and borough finances throughout Alaska. Basically,
18 the issue here is one of fear that the Commission is -- and
19 the state are -- can and may, at its discretion, take up
20 other such issues. What is the comments on the part of the
21 Commissioners?

22 COMMISSIONER HANSON: Mr. Chairman, I have one comment
23 to start out our considerations, and that is that I'm
24 sympathetic to this concern in making sure we address it. I'm
25 not sure how widespread it is. We've received -- first of

1 all, we -- if I recall right, our Staff encouraged us to have
2 the hearing in Anchorage after -- I believe it was the
3 representative of the North Slope Borough suggested a hearing
4 in Anchorage, which we held partially so affected boroughs
5 were concerned about this precedent could talk to us directly.
6 And I don't believe -- for whatever reasons -- anybody was
7 able to talk to us on that, other than Mr. Richards, I believe,
8 talked to us about bonds regarding a precedent. We have re-
9 ceived four pieces of correspondence that I'm aware of, a
10 telegram from Mr. Stan Thompson on behalf of the Kenai Borough
11 administration, and it's been clarified in more recent letters --
12 being concerned about the benefits, and the -- excuse me,
13 just the precedent that -- to some extent -- mainly question-
14 ing whether benefits have been established for the detachment.
15 There was also a resolution given to us by Cordova city
16 council, which resolved -- they urged the Boundary Commission
17 not to approve the boundary change requested by the Commission-
18 er in the Department of Community, Regional Affairs. And what
19 their concern was that such action by the State to alter a
20 municipality's boundary without its assent could have
21 tremendous detrimental impact on the fiscal viability and
22 government integrity of all the municipalities in Alaska. I
23 take it addressing the same concern. It was a general
24 telegram. The other two -- we got one from the -- I believe
25 it was the mayor of Anchorage, and it mainly talked about

1 taking more -- this was to us last week when we thought we
2 were going to make a decision a week ago on taking adequate
3 time. In considering this -- and one from Kodiak, which also
4 dealt with -- a prime example (indiscernible) -- proposed
5 attachment is a significant and substantial issue that requires
6 thoughtful consideration, and goes on to say that this cannot
7 be insured by an expedited public hearing or review schedule,
8 so -- also addressing the item of time, not a precedent. So,
9 I think it's mainly the Kenai Borough, and the Cordova city
10 council that is directly addressed to this.

11 COMMISSIONER ANDERSON: I would feel if they were -- no
12 representatives from any other boroughs at our Anchorage
13 hearing indicate not to create a fear with -- otherwise, I
14 would feel that there a representation of some type from some
15 of these other boroughs. It's just my opinion, but

16 COMMISSIONER HANSON: The other concern is the question
17 of is this a unique situation, or is this something that you'd
18 see everywhere, and are we using criteria for our decision.
19 We've had both the North Slope Borough resolution 85-15, and
20 referring to it being a unique situation, and no precedent.
21 We've also had some other testimony talking about the unique
22 circumstances of this particular area, and detachment. I
23 guess those are the starting comments I have.

24 CHAIRMAN BETTISWORTH: I guess -- on the part of the
25 borough, what they really did is they cited all the opportunities

1 for potential changes in boundaries that might be instigated
2 by the Commission. The -- I guess we've -- at least in my
3 part, I've looked through that list. I'm familiar with
4 probably 50 percent of those places on those lists. In fact,
5 some of the actions that they describe here -- I've been
6 involved in -- not actions, but potential actions, and so
7 have you, Jo.

8 COMMISSIONER ANDERSON: Right.

9 CHAIRMAN BETTISWORTH: It just -- I guess in response --
10 really, the question is to us. We're the people who are
11 actually initiating the action

12 COMMISSIONER HANSON: Pardon. Taking the action.

13 CHAIRMAN BETTISWORTH: Yeah, right, taking the action.
14 And really, if you use the reasonable standards -- if we
15 have the proper amount of information, and that we can come to
16 a conclusion that detachment is proper, that would have to be
17 the case in every other situation, and -- you know, there has
18 to be some demonstrated purpose in proceeding with one of
19 those -- with something like this, and the ones that we see
20 here just don't really -- don't really demonstrate that kind
21 of unique condition, or the proper purposes other than just
22 a -- I don't know -- sort of indiscriminate re -- reforming
23 the boundaries within the borough -- within the State --
24 borough (indiscernible) the State. So, I guess the facts
25 on this -- well, there's an allegation made that the facts

1 are -- I don't think that it's demonstrated that we really have
2 a -- that the State has a philosophy that goes to

3 COMMISSIONER HANSON: Peckless

4 CHAIRMAN BETTISWORTH: reckless detachments, yeah.

5 COMMISSIONER HANSON: I'd like to make a comment on two
6 things here. One is that the way it's being approached -- I
7 mean, I looked at that list, too, and some of them talk about
8 taking action in this situation where this area is detached
9 from that area for such and such reasons, and then it will
10 turn around a little farther down the list and have an
11 annexation for exactly that same reason, which would be wrong,
12 too, in the way the presentation is formed, that taking these
13 actions would be irresponsible. And I get the sense that
14 there was a great effort to pull in all kinds of examples
15 that don't necessarily track the detachment fear. I mean,
16 they could refer as well to the incorporation -- the other
17 corporation and annexations, other activities that we as a
18 Commission participate in. In fact, some of the examples,
19 I think, referred to other kinds of activities, if my memory
20 is correct on this. And what that leaves me to believe is
21 I get the sense of a little bit of a kitchen sink approach
22 here, where the -- a lot of things thrown in as possibilities.
23 Now, regardless of the facts or the situation in the North
24 Slope Borough detachment territory, it seems to me a lot of
25 those allegations could be made for just about any action

1 this Commission dealt with where it was detrimental to one
2 party or another, and that if the legislature and the State
3 had not wanted us to make adjustments and boundaries, they
4 wouldn't have put in the detachment authority. Now, saying
5 all that, I still think it's extremely important that we do
6 it carefully, and I think particularly very carefully using
7 the criteria. There's one thing in the statute that we can't
8 ignore, and that's a believability. The question really is
9 referring to stability of borough boundaries and borough
10 finances. So, in fairness, the majority of the concern is
11 that does this attachment mean there are going to be irrespons-
12 ible changes as a result of it, but there's a minor, small
13 consideration of just appearance, and not wanting to -- but
14 I -- of a fear stirring that something will happen even though
15 there's no basis for it. I actually don't think that
16 appearance is there, if somebody -- because of the proceedings
17 we have been going through, and also I think the lack of
18 response showed that that -- there is not such a -- there is
19 not an appearance problem, or we would have had more response.

20 CHAIRMAN BETTISWORTH: I guess one of the facts is a
21 lack of any response on the part of organized boroughs.

22 COMMISSIONER ANDERSON: Right.

23 COMMISSIONER HANSON: Well, it's my understanding that

24 CHAIRMAN BETTISWORTH: Or other assemblies.

25 COMMISSIONER HANSON: Yeah, the assemblies or organized

1 boroughs and municipalities -- and we'll ask Staff to verify
2 this -- were sent a notice of an Anchorage hearing.

3 CHAIRMAN BETTISWORTH: Right. It

4 COMMISSIONER HANSON: I believe so. That's my recollec-
5 tion. So, I'd agree with -- but that's something we could
6 verify, too, for the record, whether those notices were,
7 indeed sent.

8 CHAIRMAN BETTISWORTH: Is there any other comment on
9 this issue?

10 COMMISSIONER HANSON: No.

11 CHAIRMAN BETTISWORTH: So we can move on?

12 COMMISSIONER HANSON: This -- I guess with the under-
13 standing that we may wish to add clarification tomorrow
14 (indiscernible) on those notices.

15 CHAIRMAN BETTISWORTH: Okay. With that, let's move on
16 to factor number nine. Let me ask -- there was some discussion
17 that we might break for a dinner. What's the feeling of the
18 Commission?

19 COMMISSIONER ANDERSON: That would be a good idea.

20 CHAIRMAN BETTISWORTH: Okay. With that, we'll take a
21 45-minute break. We'll be back here at quarter to 8:00.

22 (Off record)

23 CHAIRMAN BETTISWORTH: We will reconvene of the Boundary
24 Commission on the issue of a detachment from the North Slope
25 Borough. We ended with factor number eight in the decisional

1 makage (ph.). The next factor before us is factor number
2 one. It reads, will the proposed attachment protect subsistence
3 resources and balanced development conservation concerns. I
4 guess I'll start off with my recollect with respect to this
5 issue. First, I think that the place where the most emphasis
6 on this issue came about was in the public hearings that we
7 held, particularly in Noatak and Kotzebue, where for sure the
8 issue of subsistence, utilization of land was utmost in those
9 folks' minds, and I guess the point that they made over and
10 over again that if the areas within a new Northwest Arctic
11 Borough, then their concerns can be protected. And I guess
12 that sort of falls under the issues of factor number four
13 which says, will the proposed attachment maximize the
14 promotion for self-government. And I guess in addition to
15 that, the NANA (indiscernible) agreement is fairly specific
16 with respect to its restrictions -- or its control over the
17 development of the mine itself, and the ability of those
18 villages to basically obstruct or stop activities at the mine
19 should the subsistence -- or actually should any of those
20 two villages become concerned about the developments at the
21 mine itself, whether subsistence or other environmental, or
22 employment, or whatever kinds of factors. Are there any
23 other comments on the part of the Commission?

24 COMMISSIONER ANDERSON: Well, I think that was well said.

25 COMMISSIONER HANSON: Mr. Chairman?

1 CHAIRMAN BETTISWORTH: Mr. Hanson.

2 COMMISSIONER HANSON: I'd like to make a reference,
3 although I agree with your comments, also to the reply --
4 Respondent's North Slope Borough brief in opposition, page
5 45. I spent about a couple of paragraphs actually using
6 some of this same language about the best interests of the
7 territory being -- or proposed attachment is to be found an
8 imbalance between exploitation and conservation of resources,
9 and state that there's a conservation area in effect under
10 the North Slope rules now, and bring it up for concern about
11 it's unknown what that will be if it's in NANA's, or if it's
12 in another borough, that's a normal protection it will have.
13 They also make mention of -- here and elsewhere has been made
14 mention of the comments -- I guess it was elsewhere that the
15 comments were made regarding Mr. Schaeffer's (ph.) comments,
16 and during the negotiations on trying to have a letting up on
17 the planning and zoning requirements for two or three years.
18 It was used in one negotiation, and is referred to in the
19 hearings and several documents. So, I think in that light,
20 I'd like to say on the waiving of requirements that Mr.
21 Schaeffer mentioned, and the public hearing on Kotzebue -- I
22 think that one was put to rest where the people from the NANA
23 borough, and the native association up there made it quite
24 clear that regulations would be as stringent as the North
25 Slope Borough's, or more stringent, and that Mr. Schaeffer

1 himself testified directly on his previous statements, and
2 his position which was for stringent regulations and control.
3 The concern about on-going protection -- as you mentioned,
4 one thing -- we'll be considering that probably in our
5 deliberations on the borough formation itself, and it seems
6 at that time that's one of the considerations we'd be looking
7 closely at, as well as the point you made about the residents
8 wanting protection, and the Kamanco agreement already contained
9 certain protections, especially on the caribou, and that --
10 that I think both the hearing showed a great deal of concern --
11 so it seemed to us both -- and the Boundary Commission members,
12 that we would be going an extra length to make sure in the
13 borough proceedings that we're looking for those assurances,
14 and plans to take care of the transition.

15 CHAIRMAN BETTISWORTH: Any other comments on factor
16 number nine?

17 COMMISSIONER ANDERSON: No.

18 CHAIRMAN BETTISWORTH: Okay. With that, then we will
19 move to factor number ten.

20 COMMISSIONER HANSON: Mr. Chairman, I'd like to make one
21 more comment. I'm sorry.

22 CHAIRMAN BETTISWORTH: Okay.

23 COMMISSIONER HANSON: I also believe that in the regional
24 strategies that the NANA people have referred to that there
25 is principles established about balancing development and

1 conservation, and the protection of subsistence resources.

2 Thank you.

3 CHAIRMAN BETTISWORTH: Factor number ten: will the
4 proposed attachment promote harmonious relationships between
5 neighbors -- relations between neighbors. I guess the -- with
6 respect to this issue, the comments that have been made are
7 that -- on the part of the Petitioner, that, in fact, the
8 detachment does promote harmonious relationships by setting
9 aside sort of an aggravation that has been in affect for at
10 least the 13 years that the North Slope Borough has been in
11 existence were -- or be just -- since the boundaries for the
12 NANA reason are ex propriis and have been in existence, and
13 were different from the borough's boundaries, and that is their
14 position. I guess from my reading on the North Slope side,
15 their feeling is that no matter what the resolution is that
16 there's going to be hard feelings on either side for a
17 continuation of time, and that really this action has no
18 affect on the harmonious relationships. Is there any other
19 comments of the other Commissioners?

20 COMMISSIONER ANDERSON: Well, the only thing I wish to
21 add would be in other -- no -- other -- not exactly similar
22 situations, because this is certainly a very different
23 situation than we have encountered before, but where there
24 have been boundaries changes sometimes there have been very,
25 very strong feelings on both sides of the boundary change.

1 But, once it has been made, people generally learn to live with
2 it and become more harmonious.

3 CHAIRMAN BETTISWORTH: Mr. Hanson?

4 COMMISSIONER HANSON: Well, I just -- based upon the
5 hearings we've just gone through, and the testimony we've got,
6 I don't think, although I agree with Ms. Anderson's -- I
7 think it's a toss up. I don't think we can actually go ahead
8 and say that it's going to promote more harmonious relations,
9 maybe -- and perhaps in the long term it's very illogical
10 that it would if the detachment -- if we were to decide in
11 favor of the detachment if it's improved the boundary situation.
12 But, it seems to me either way there are going to be some
13 hard feelings for a while. We've heard an awful lot of
14 testimony to that kind of affect. So, I guess I'd say that's
15 sort of a mutual consideration.

16 CHAIRMAN BETTISWORTH: Any other comment on the part of
17 the Commissioners?

18 COMMISSIONER HANSON: No.

19 CHAIRMAN BETTISWORTH: Okay. With that, then, we'll move
20 on to factor number eleven: what does the record of the public
21 hearings and other information submitted in this proceeding
22 show regarding pertinent public opinion on the proposed
23 detachment. I guess what I'd like to do -- okay. Well, why
24 don't we take a couple minutes to review the briefs.

25 (Off record)

1 COMMISSIONER ANDERSON: Well, I'll be glad to start it
2 off. Our records of our public hearings, and the other
3 information -- we were in the NANA area. We received strong
4 support for the detachment, and were shown a great desire
5 for the people at NANA area to form the borough and to be
6 able to finance it. And in the North Slope areas, we -- it's
7 just the other side. Each side, I'm sure, has a viable reason
8 for their testimony. I can't say much of anything. I forgot
9 what happened.

10 CHAIRMAN BETTISWORTH: Thank you. I guess as a -- sort
11 of the way it went was that in Kotzebue and Noatak we found
12 almost unanimous consent that the detachment and subsequent
13 formation of a borough were, in fact, desired, that in Point
14 Hope and in Barrow we found the opposite, that, in fact, it
15 was detachment and subsequent formation of a borough in the
16 NANA region was not to their interest, and they were not in
17 favor of it, and I guess further, the issue of the vote that
18 was taken -- the advisor vote that was taken in October was an
19 indication on the part of the North Slope Borough that the
20 voters, at least, did not think that this was in their best
21 interests. Again, that vote was on a much smaller and a
22 different kind of an application than the one we're
23 (indiscernible) facing them right now. I guess from my stand-
24 point the real -- the crux of the matter is, is where does
25 the responsibility of the Commission in viewing these public

1 hearing, and basically public opinion. And, I think that
2 the constitution contemplates that there would be differences,
3 and that really it's our duty to use our judgment to look at
4 the issues and resolve them

5 COMMISSIONER HANSON: Mr. Chairman?

6 CHAIRMAN BETTISWORTH: Mr. Hanson?

7 COMMISSIONER HANSON: I'd like to make a -- I agree with
8 what's been said. I think we need to emphasize, though, on
9 how large the response of voters and petitioners are -- or
10 was in the North Slope Borough, that the original voters
11 you mentioned was for a smaller area, and that in one village,
12 Point Hope, where the vote was tied at close to tied, and
13 then -- I think it was Point Lay where detachment actually
14 won on the ballot at that time. The part of the original
15 agreement was promising residents of that area jobs -- or a
16 preference in the -- in the mine site. It was part of the
17 understanding that was going with it. But, I think we have
18 to consider that when we're looking at that original vote.
19 Obviously, a few may have voted for it that were nos, but
20 they might have taken that into consideration. Secondly,
21 we received a petition with 1,100 names on it, and -- at the
22 hearing in Barrow. We've probably heard from -- at least
23 safely the large majority of every government and civic
24 leader of local governments on the North Slope I imagine
25 testifying against it, except I believe there were two that

1 didn't. I believe Eddie Hobson (ph.) of the North Slope --
2 or the Arctic Slope Regional Corporation did not, and maybe
3 what this shows is the strength of feeling this conflict
4 thing. We've got (indiscernible) to reflect it. So, I --
5 but I think those are something that we need to keep in mind
6 as we consider the best interests.

7 CHAIRMAN BETTISWORTH: I think we also need to point out
8 that it's the borough's point of view that, in fact, the mandate
9 against the detachment as demonstrated by the vote is -- needs
10 to be one of those things that's foremost in our minds as we
11 consider this issue. Any other comments on number eleven?

12 COMMISSIONER HANSON: I guess the only other thing is
13 that obviously we've got a self-determination issue that's
14 shown by the public comment on both sides. On one side the
15 Kivalina and Noatak people wanting to control their own
16 water shed, and the NANA people wanting to control their
17 entire region and development area, and the North Slope
18 Borough showing strong feelings through their votes and
19 petitions that they want to retain their existing boundaries.

20 CHAIRMAN BETTISWORTH: Any other comments? Okay. Then
21 we'll move on to number twelve: will the proposed detachment
22 aid in perfecting the boundaries of the North Slope Borough
23 in the proposed Northwest Alaska Borough according to exist-
24 ing historical -- they reamended this to say existing
25 economic, historical and culture use areas and geography areas.

1 Do we want to take a couple of minutes to go through these
2 notes and briefs?

3 (Off record)

4 CHAIRMAN BETTISWORTH: Okay. Factor number twelve is
5 before us. The factor reads: will the proposed detachment
6 aid in perfecting the boundaries of the North Slope Borough
7 and the proposed Northwest -- that should actually be North-
8 west Arctic Borough.

9 SPECIAL COUNSEL CONDON: One thing you ought to do is
10 look through pages 10 through 15 in the North Slope Borough
11 and change that entry on your

12 CHAIRMAN BETTISWORTH: From 45?

13 SPECIAL COUNSEL CONDON: From 45.

14 CHAIRMAN BETTISWORTH: 10 through 14?

15 SPECIAL COUNSEL CONDON: 10 through 14.

16 CHAIRMAN BETTISWORTH: I was going to say I didn't find
17 anything on

18 SPECIAL COUNSEL CONDON: I'll also call your attention
19 to page 10 of the North Slope Borough.

20 CHAIRMAN BETTISWORTH: Okay. We'll take a second to take
21 a look at those.

22 (Off record)

23 CHAIRMAN BETTISWORTH: Prepared to (indiscernible)? Okay.
24 With that, then, we'll go back and re-read the factor: will
25 the proposed detachment aid in perfecting the boundaries of

1 the North Slope Borough and the proposed Northwest Arctic
2 Borough according to existing economic, historical, cultural
3 use areas and geography. I guess I can start this off. I'd
4 like to comment that I think that the record -- basically it
5 shows up first in the petition. There's -- response to
6 opposition brief goes through

7 COMMISSIONER HANSON: You mean the opposition brief?

8 CHAIRMAN BETTISWORTH: I was going to say. Maybe it's
9 the brief itself that goes through a lengthy description of
10 the actions that took place during the formation of the --
11 that's not where it's at.

12 COMMISSIONER HANSON: On the standard brief.

13 CHAIRMAN BETTISWORTH: What the -- I think that -- actually,
14 it's in the record of the NANA borough. NANA's supporting
15 brief is a record of the actions taken by the Local Boundary
16 Commission at the time that they formed the borough -- North
17 Slope Borough, and I think that it's -- I guess what I see
18 there is that there's a showing that the Commission had the
19 understanding at the time without the formation of the Arctic
20 Slope Regional Corporation and NANA Regional Corporation that
21 the boundaries were to be coterminous. It was their under-
22 standing that that's the way it was going to turn out. That,
23 in fact, what happened is that -- that is the way it turned
24 out. There was -- there was still some questions about how
25 it was going to really be resolved in the end. So, that there

1 ended up being a difference between the two. The -- the other
2 thing is is that the original boundary was disputed then
3 before NANA. It was -- there was a strong challenge. It was
4 a singular challenge, and I don't think that it doesn't seem
5 like the record adequately reflects that challenge. I guess
6 in addition, with respect to the issue of geography, it's
7 clear that this -- that boundary line on the 68th parallel
8 really doesn't describe any geographic feature -- geographical
9 feature, and that something closer to what the boundary
10 that's proposed, which is again coterminous with the regional
11 corporation boundaries, is more in keeping with the geographical
12 conditions. I guess that's all I have on this.

13 COMMISSIONER HANSON: Mr. Chairman, I -- I'm sorry.

14 COMMISSIONER ANDERSON: No. I (indiscernible) some
15 comments.

16 COMMISSIONER HANSON: We've got an interesting question
17 here, and a lot of things came up in the briefs, and it
18 seemed like maybe the history of this issue perhaps was
19 talked about and argued back and forth to a point out of
20 proportion to its direct relevance as to our proceeding, though
21 it is a consideration. First on the history, what I see is
22 that one, the two regional corporations were having hard
23 negotiations on whether the division line would be between
24 the two regions. Two, the North Slope Borough took -- requested
25 the 68th parallel, which is the starting point for negotiations

1 by the Arctic Slope Region. Mr. Newman objected. The
2 Boundary Commission took that into consideration, and then
3 was assured that where the two regional boundaries would end
4 up was synonymous with where the North Slope Borough boundaries
5 would be, and that could have been said in good faith by
6 somebody from the North Slope thinking they would get the
7 boundary they asked for originally, which was the 68th
8 parallel, so I think we've got a situation, is what I'm
9 saying. I don't see -- we've got quite a testimony offered
10 by Mr. Schaeffer explaining why NANA -- he in a letter from
11 NANA Corporation later indicated acceptance of those boundaries
12 which makes it pretty clear that it was to help negotiations
13 go on regional boundaries. But, I think the record is clear --
14 and I'm not sure how important it is -- that the Boundary
15 Commission felt the boundaries they were approving were likely
16 at least going to be exactly the same boundaries as between
17 the two regional corporation, and that turned out not to be
18 the case. At the same time, the Boundary Commission went
19 through a full legal process to do things properly. I think
20 our consideration of that -- and nobody's debating that, that
21 it was a legal process. It's just that while this was obvious-
22 ly a concern at that time, that's something that we're look-
23 ing at again. Thirteen years later, it's very -- detachment
24 is such that it's very natural to re-look at any boundaries
25 even if there wasn't a conflict, or a controversy about the

1 boundary at that time. There's a reason now.

2 CHAIRMAN BETTISWORTH: Yeah. I guess one of the things
3 that shows in this is that really the original Boundary
4 Commission, the Boundary Commission in '72, did have as one
5 of its criterias that the boundary be deformed to the regional
6 corporation boundaries. That it didn't turn out that way
7 is -- was really sort of a function of timing, and the
8 situation.

9 COMMISSIONER ANDERSON: Yeah, right.

10 COMMISSIONER HANSON: The other think I'd like to say,
11 though, is that the new boundary -- or the proposed detachment
12 boundary obviously would correct that. It would be synonymous
13 with the regional corporation, but as far as looking at these
14 other factors, geographically we had a lot of testimony in
15 Noatak and Kotzebue and from Kivalina people that they've --
16 the more appropriate boundary is the crest of the Brooks
17 Range, which is further north than the proposed boundary.
18 Now, we don't have the -- we can't do anything about that at
19 this time, but I think it should be noted. So the hearing
20 on one end said that's not far enough. The other thing is
21 that it's definitely clear in the letter about the agreement
22 on the boundaries for the two regional corporation that they
23 encompass cohesive historical and cultural areas, the NANA
24 Corporation boundary, and the North Slope to the extent they
25 can. The last comment I'd like to make is one from the

1 findings on the North Slope Borough -- the statement of
2 findings to the Local Boundary Commission under geography,
3 page three states that the Commission plans the proposed
4 borough meets the standard in every respect, and that the
5 areas generally bounded by the crest of the Brooks Range and
6 the areas (indiscernible). So the fact that this detachment
7 would move closer to the crest of the Brooks Range is not
8 inconsistent with their finding. The other thing I'd like
9 to say is economically you've got a situation where obviously
10 the land is owned by the NANA Corporation, and you have a
11 regional corporation that's looked on as an economic unit,
12 and that would be -- well, in agreement with perfecting,
13 or making the boundaries a little more logical.

14 CHAIRMAN BETTISWORTH: Any other comments?

15 COMMISSIONER ANDERSON: No, I have none.

16 CHAIRMAN BETTISWORTH: Okay. Then with that, we will
17 move on to factor number thirteen. The factor is: will the
18 proposed detachment facilitate control over industrial
19 development and management of rapid social and economic
20 change by those communities and people most affected by them.
21 This will take a minute to review our notes, and comments on
22 the briefs.

23 (Off record)

24 CHAIRMAN BETTISWORTH: Okay. We'll pick up with factor
25 number thirteen: will the proposed detachment facilitate

1 control over the industrial development and management of
2 rapid social and economic change by those communities and
3 people most affected by them. Mr. Hanson?

4 COMMISSIONER HANSON: On this question, we've kind of
5 really -- two major considerations, and one is on the side of
6 going for the detachment. Obviously, the people most affected,
7 meaning those in Kivalina, Noatak, and the Kotzebue region,
8 by having the Red Dog area and that mineral area included
9 in their -- in a borough government boundary will have much
10 more direct control over what happens there than they do now,
11 although they have some control through ownership in the NANA
12 Corporation. As far as management of rapid social and economic
13 change by those communities and people most affected by them,
14 there are several things in the record that point out that
15 obviously the impacts are going to hit the NANA region, and
16 hit Kotzebue, and detachment definitely will -- would -- and
17 formation of a borough -- would help Kotzebue and the NANA
18 Region be able to manage the social and economic changes they're
19 going to be hit with due to development of the mine, and we've
20 got testimony by John Schaeffer, by NANA, by several people
21 at the hearing talking about their -- the need to manage this,
22 the desire to manage it, and a lot of concern that the
23 Noatak -- here in the village. So, the residents most
24 affected wanted to control their own future. The other side
25 of this issue to me is -- it was stated quite well by Mr.

1 Ronald Brower in his testimony. The advantages of using the
2 existing infrastructure, and the transition -- I believe he
3 also mentioned transition period, but others have mentioned
4 transition period concerns. So, there is that consideration,
5 but that consideration only speaks to efficiency in the very
6 short term. It seems to me based upon the testimony we heard,
7 detachment will facilitate control over the industrial
8 development and management of the rapid social and economic
9 change by those most affected by it. My one qualifer will be
10 the need to make sure that this also happens during the
11 transition period, and also the interest of the Point Hope
12 people, and the caribou, and their subsistence concerns.

13 CHAIRMAN BETTISWORTH: I guess what I'd like to add to
14 that is with the Red Dog Mine included as part of the tax
15 base for the proposed borough that would have control of
16 this development, they didn't have the financial resources
17 to effectuate the control, and without a tax base, without
18 the money to do it, that they wouldn't be able to really do
19 that without another source of funds. Any other comments
20 before the Commission?

21 COMMISSIONER ANDERSON: Yeah, I think you just said all
22 the things I had to say.

23 COMMISSIONER HANSON: I will just mention one more thing
24 on the record as far as the fact that talking about impact on
25 the area in past growth I found it interesting -- we have

1 letters from the GCO Minerals Company and Noranda, both
2 talking about the significant affect the developments are
3 going to have on the communities in the area. Before we get
4 off this, it's also worthwhile to point out that the people
5 of Point Hope felt that there was going to be some impact on
6 them from the development of this mine, and -- or any of the
7 mineral resources within the area, and there was some concern
8 on their part that they were losing what control they had over
9 that development. There was some concern over the -- for sure
10 the subsistence use of the caribou herds that traverse the area,
11 and additionally there were -- whatever -- air, pollution that
12 may occur, deviation to air quality, and also there was some
13 concern over pollution or -- or contamination of waterways and
14 rivers. I guess on the part of the waterways and rivers issue,
15 really the area that the Red Dog Mine is -- really does drain
16 into the Kotzebue basin area, and not so much into the -- and
17 not at all into the Point Hope area, and -- so that not --
18 isn't really much a concern on their part.

19 COMMISSIONER ANDERSON: I think they were quite concerned,
20 however, about the caribou herd.

21 CHAIRMAN BETTISWORTH: Right.

22 COMMISSIONER HANSON: The one point on the caribou
23 herd -- my understanding is that that's one of the most
24 important -- or one of the important parts of the agreement
25 that NANA has involving Kivalina and Noatak advisory group

1 with Kamanco on use of the road facilities, but I think it
2 points out something that just -- obviously, there is a need
3 for some communication and coordination between the NANA
4 people and the developers of that mine and the Point Hope
5 people regarding protection of caribou and general subsistence
6 use in the area. I guess the other concern that it could hit
7 the other side of the crest of the Brooks Range would be any
8 types of air pollution, but it seems like that's a legitimate
9 concern.

10 COMMISSIONER ANDERSON: Well, I -- as I remember from
11 the hearings, I got -- from both the NANA region and from
12 the North Slope that these were going to bother the others
13 on subsistence use in both directions.

14 COMMISSIONER HANSON: Yeah, (indiscernible) from my
15 comment, I agree with that, that there was more reference to
16 communication and involvement of the respected parties to
17 assure that they weren't affected by industrial and

18 COMMISSIONER ANDERSON: (Indiscernible.)

19 COMMISSIONER HANSON: But it was clear there's a mis-
20 understanding on people thinking there was going to be a
21 fence or something keeping them from going back and forth
22 across the borough line, which was a misunderstanding.

23 CHAIRMAN BETTISWORTH: Are there other comments on
24 factor thirteen? Then we can move on to factor fifteen.

25 Factor fifteen reads: should uncontrolled development occur

1 before the proposed Northwest Borough -- I think it should
2 be Northwest Arctic -- I guess it's Northwest Arctic -- North-
3 west Arctic Borough can implement its regulatory and planning
4 powers. Basically, this is a sequencing issue. It was raised
5 in a brief by the Respondent, North Slope Borough in opposition,
6 and we can take a couple minutes to review that.

7 (Off record)

8 COMMISSIONER ANDERSON: Yes, I'd like to lead off on this.
9 As far as uncontrolled development, the borough would have to
10 be in place before the detachment becomes effective, and in
11 that way they should have everything together as far as having
12 the people that are needed, and getting everything set up, it
13 probably -- if this comes to pass, they probably will have
14 that together by the time it's approved, and the detached --
15 I mean if it is approved that is, and the detachment would not
16 be effective until after this happened, which is certainly a
17 control itself.

18 CHAIRMAN BETTISWORTH: Mr. Hanson?

19 COMMISSIONER HANSON: Yeah. I agree with the concept
20 of Mrs. Anderson's comments, but I'd just like to point out
21 technically from reading the regulations under 1980 C 10.240B
22 it states that, if in fulfilling the requirement of aid of
23 the section the Petitioners are proposing a corporation of a
24 new municipality, Commission will in its discretion condition
25 approval of the detachment upon voter approval of an

1 incorporation proposal. Now, I'm just curious. Was -- is our
2 condition in our -- in the original position just refer to
3 brutal approval or does it refer to actual formation of the
4 borough? Because -- not that this couldn't be corrected in
5 either case through assurances, we could attempt to provide --
6 and first we could attempt to provide in the borough formation
7 of process review of the borough formation of process itself,
8 and I'd just like to correct that technicality.

9 CHAIRMAN BETTISWORTH: Well

10 COMMISSIONER HANSON: I might -- my point is that if
11 it's effective

12 CHAIRMAN BETTISWORTH: Here's what the petition says on
13 the front page: it says condition that the detachment take
14 effect only upon appropriation of a borough within the NANA
15 region, so

16 (Indiscernible - simultaneous speech)

17 COMMISSIONER ANDERSON: And that's exactly what I was --
18 sorry about the disorder, guys.

19 CHAIRMAN BETTISWORTH: The concern I have is that in-
20 corporating a borough and getting in place a zoning ordinance
21 and mapping the zoning is a couple different things. There's
22 a period in there when -- in which there's a -- there may not
23 be the actual on-the-ground zones offered, and that I see as
24 being a legitimate concern that there is a slip in there, that
25 in some way -- particularly since this process of developing

1 the mine is on-going, that there needs to be -- if it were to
2 take place, there needs to be some sort of transition mechanism
3 established to take care of that.

4 COMMISSIONER HANSON: Would we as a Commission have the
5 ability to -- I'm not sure the right word -- request assured
6 that that is part of the submission for the borough formation
7 as an additional consideration, or I guess we could suggest it.

8 CHAIRMAN BETTISWORTH: Yeah, I think it's something that
9 really needs to be in -- dealt with at the time that the
10 borough petitioned, or was submitted to us. Somehow that
11 portion needs to be addressed.

12 COMMISSIONER ANDERSON: It should be a part of the
13 petition I would think.

14 CHAIRMAN BETTISWORTH: If there's a -- you know, there's
15 a hole

16 COMMISSIONER HANSON: Or additions or explanations that
17 services will be provided in the new borough. It seems that
18 in dealing with that consideration a borough formation -- it
19 would be necessary to have this transition addressed.

20 CHAIRMAN BETTISWORTH: The -- if we go to the opposition
21 brief, 45 and 46, their concern is in the interim uncontrolled
22 development may occur, and I guess that -- we've already said
23 this once before, but uncontrolled development of that mine
24 cannot take place, because there's at least several other --
25 many agencies involved, and that the planning and zoning

1 powers of a borough are only one of the twelve that affect
2 this action.

3 COMMISSIONER HANSON: The one thing I'd add is we've
4 certainly been receiving indications, especially one on --
5 since we opened our public hearings, everybody everywhere wants
6 to control and make sure this development in this area happens
7 safely no matter where they are located. So, there's definitely
8 an intent on the residents of both the NANA and North Slope
9 areas of Alaska.

10 CHAIRMAN BETTISWORTH: Any other comments about factor
11 fifteen?

12 COMMISSIONER ANDERSON: I think it's well covered.

13 CHAIRMAN BETTISWORTH: Okay. With that, we've covered
14 the fourteen factors that we originally took on. Are there
15 any other comments with respect to those factors

16 (Off record - tape change)

17 CHAIRMAN BETTISWORTH: what goes beyond this ADA
18 of financing of the (indiscernible) mountain transportation

19 MR. HARRISON: Mr. Chairman, I called Terry
20 Elder, who is the deputy commissioner of the Department of
21 Commerce and Economic Development, and Terry has been
22 intimately involved with the negotiations between the State,
23 ADA, and on the one hand Kamanco and NANA on the other, and
24 I read him the material that was addressed to this subject in
25 the North Slope Borough opposition brief on page 26 and 27,

35

1 and asked for his comments on it, particularly -- you know,
2 just talked about the opportunity for there to be payments in
3 lieu of taxation, and his reply was that to his knowledge such
4 payments have never been discussed. There was no contemplation
5 of any kind of payments in lieu of taxation. The only payments
6 that have ever been the subject of discussion on the part of
7 Kamanco and NANA have to do with a -- basically, a user fee
8 that results in minimum return on the State's investment of
9 six-and-a-half percent. There's also an excess tonnage fee,
10 and then there would be additional payments by Kamanco in the
11 event that there was some premium price of zinc. And the
12 only other payments that were discussed, according to Terry,
13 are payments that the State would make to NANA for the purchase
14 of right of way and gravel. I asked him if it would be -- if
15 technically it was too late for there to be any such provision
16 in the contract had it been signed, what was the status of
17 that, and he said, no, that technically not, that the only
18 thing there was at this point was an MOU, a contract that's
19 being drafted and the meetings were planned next week to deal
20 with the contract, but he emphasized that at no time have any
21 such payments been in discussion.

22 CHAIRMAN BETTISWORTH: I guess the issue would be who
23 owns the system.

24 MR. HARRISON: Those will be State-owned
25 properties.

1 CHAIRMAN BETTISWORTH: Okay. They are State-owned
2 properties?

3 MR. HARRISON: Yeah.

4 CHAIRMAN BETTISWORTH: And then basically what we're
5 doing is we're using the user fees as almost -- what we're
6 doing is issuing the revenue bond, and we're using user fees
7 for to pay off the revenue bond. I mean, that's sort of the
8 concept here. So that as State-owned property it really is
9 not taxable.

10 MR. HARRISON: It's not -- it's -- that's
11 right.

12 CHAIRMAN BETTISWORTH: Any questions of the Commissioners?

13 COMMISSIONER ANDERSON: I've answered that for us.

14 CHAIRMAN BETTISWORTH: Okay. Go ahead, Gordon, if you
15 have another comment.

16 MR. HARRISON: No, no, I was just going to talk --
17 I -- the concept of payment in lieu of taxes is based on the
18 assumption that it is a government-owned property. Often
19 governments make such payments to -- the federal government
20 essentially does it -- you know, if there's military reser-
21 vations and so on, so you understand that, but

22 CHAIRMAN BETTISWORTH: Is the State of Alaska involved in
23 that at all?

24 MR. HARRISON: I don't know if the State ever
25 makes payments in lieu of taxes or not.

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1 CHAIRMAN BETTISWORTH: Are there any other comments on
2 the part of the Commissioners on this issue?

3 COMMISSIONER HANSON: Well, Mr. Chairman, I'm just
4 wondering do we -- I mean, I can look back in the record, but
5 just -- Gordon, do you happen to know off the top of your head
6 how much -- what the amount of fees are yearly, or what the
7 agreement

8 MR. HARRISON: As I understand it, it's the
9 user fee, which would be a toll, or a tonnage fee or something
10 is a calculation that's derived from the anticipated repay-
11 ment to the State of six-and-a-half percent of the State's
12 investment in this, and I don't know what that translates
13 into dollars, so

14 COMMISSIONER HANSON: But the State's investment is

15 MR. HARRISON: \$175 million, I

16 COMMISSIONER HANSON: \$175 million.

17 MR. HARRISON: or let me say that I -- I
18 shouldn't speak about that, because I'm not sure -- I'm not
19 familiar with the financing of that whole project, and what
20 the State's -- the State's investment may be substantially
21 less. I really don't know.

22 CHAIRMAN BETTISWORTH: This comes from the North Slope
23 Borough's brief of opposition, page 25 and 26. (Indiscernible)
24 industrial development can issue up to \$175 million in State
25 bonds and notes to finance road and port improvements to the

1 Red Dog Mine project. It goes on to state that they are
2 required to provide a finance plan, et cetera. Is there any
3 comments on the part of the Commissioners?

4 COMMISSIONER HANSON: I have no comments at this time,
5 but I'm going to try to read through this.

6 CHAIRMAN BETTISWORTH: If you use the whole \$175 million
7 and you're paying back at the rate of six-and-a-half percent,
8 it's about -- this is not compounded, this is just the six-
9 and-a-half percent, the anthill fee then for using the road is
10 on the order of \$11 million. To generate the same taxes as
11 would come from the development at Red Dog -- let's say at
12 \$250 million -- well, not \$250 million -- about \$4 million
13 worth of taxes, it would probably raise this -- well, I'll
14 work it out, but -- for some reason that doesn't work.

15 COMMISSIONER HANSON: Mr. Chairman, one question I have
16 is an agreement like this is always quite complex, and there's
17 a lot of things in it beyond first glance. I guess I'm
18 curious about whether it had anything to do with economic
19 viability of the project, or anything that had to do with
20 the fact that this wasn't considered.

21 CHAIRMAN BETTISWORTH: The one thing we do know is that
22 if you were to tack on a tax, or payment in lieu of taxes to
23 the road project, that would be additional to any taxes that
24 the mine project would be paying to the North Slope Borough
25 for the assessments at the mine itself, so that the cost to

1 the developer of the mine project goes up under that kind of
2 a theory. I guess the alternative to this is that should the
3 detachment not take place is there a payment in lieu to NANA
4 for the North Slope Borough for -- in taxes being suffered
5 by the people in the proposed NANA Borough.

6 COMMISSIONER HANSON: Because the impacts are outside
7 them, or something.

8 CHAIRMAN BETTISWORTH: Which factor did that come up
9 under?

10 COMMISSIONER ANDERSON: This was under seven.

11 CHAIRMAN BETTISWORTH: Seven. I guess the comments that
12 we've just issued I hope show up in the record on the -- on
13 factor number seven. It doesn't seem like there's any clear
14 resolution of where those things fall out, but at least there --
15 there's been some consideration here.

16 COMMISSIONER ANDERSON: Right.

17 CHAIRMAN BETTISWORTH: The other issue that was before
18 us that was left outstanding was the issue of public notices
19 of the municipalities.

20 SPECIAL COUNSEL CONDON: Mr. Chairman, I (indiscernible)
21 the discussion of scheduling of the public hearings that the
22 Commission requested that all boroughs and unified -- or all
23 the municipalities in the State to be invited to comment.
24 Accordingly, a letter went out on December 19th, and I'll
25 just read from this relevant part: the Local Boundary

1 Commission has invited interested boroughs, unified home rule
2 municipalities to comment during the course of a scheduled
3 hearing on the proposed detachment to be held in Anchorage on
4 January 8th, 1986. If you are unable to attend the meeting,
5 we suggest that any written comments you wish to submit on
6 this matter might be forwarded to the Local Boundary Commission
7 through this office, that's the office in Anchorage, on or
8 before January 6th, 1986.

9 CHAIRMAN BETTISWORTH: Any comment on the part of the
10 Commission?

11 COMMISSIONER ANDERSON: We received four letters, right?

12 CHAIRMAN BETTISWORTH: That -- those four responses?

13 COMMISSIONER ANDERSON: Yes.

14 CHAIRMAN BETTISWORTH: And act -- let me see. Actually
15 only one of those was from the unified municipality. The
16 rest of them were from cities, right?

17 COMMISSIONER HANSON: One was from Cordova, one was
18 from the Kodiak Island Borough, one was from the Kenai
19 Peninsula Borough, and the other one was from the Municipality
20 of Anchorage.

21 CHAIRMAN BETTISWORTH: All right. Are there any other
22 comments on the part of the Commissioners at this time? I
23 guess what's before us now is that we have time to recess.
24 The Staff is going to take these comments we've made on each
25 one of these factors and prepare a text which we will then

1 review tomorrow morning. Basically, at that time we will
2 review these proposed findings of fact, and then proceed to a
3 best interest determination, and from there go to another
4 recess so that the Staff could draft these determinations, and
5 if necessary then have to pick up the issue of guaranteed
6 services as its liabilities will be divided, and then vote on
7 a motion to approve the petition. I guess in other business
8 that's still before us is the issue of those decisional
9 statements that need to be approved and signed off on. I
10 guess my recommendation is -- I guess they've been distributed
11 to each of us now, that we look those over this evening and
12 be prepared to discuss them first thing tomorrow morning. Mr.
13 Hanson?

14 COMMISSIONER HANSON: Yes, Mr. Chairman, I'm wondering if
15 we want to ask Mr. Condon or Mr. Harrison if they have any
16 comments on the proceedings, or the procedures for tomorrow.

17 MR. HARRISON: I have none.

18 SPECIAL COUNSEL CONDON: I have no comments other than I hope that
19 you would expect to see us with respect to the matter we've
20 been discussing today around 9:30.

21 CHAIRMAN BETTISWORTH: Let me ask -- we -- what is the
22 schedule for getting in here tomorrow morning?

23 MR. GENE KANE: I talked to the maintenance staff.
24 They said that they would have the doors open at about 8:00
25 o'clock.

1 CHAIRMAN BETTISWORTH: Okay. What's the pleasure of
2 the Commission? Do we need to -- well, how much time do we
3 need to go through these decisional statements? If we get
4 together at 8:30, we should

5 COMMISSIONER HANSON: Yeah.

6 CHAIRMAN BETTISWORTH: have plenty of time to be
7 prepared to

8 (Indiscernible - simultaneous speech)

9 COMMISSIONER ANDERSON: Yes, if we take them home and
10 review them tonight so that we know what we're doing.

11 COMMISSIONER HANSON: Mr. Chairman, just a technicality.
12 Do we need to table our motion on the North Slope Borough
13 detachment issue until tomorrow at 9:30 so that we have a
14 free agenda for consideration of our decisional statements?

15 CHAIRMAN BETTISWORTH: I've entertained that motion.

16 COMMISSIONER HANSON: Okay. I move that we table the
17 motion that's on the floor regarding the proposed detachment
18 from the North Slope Borough and consideration of it until
19 9:30 a.m. tomorrow morning.

20 CHAIRMAN BETTISWORTH: Second?

21 COMMISSIONER ANDERSON: Second.

22 CHAIRMAN BETTISWORTH: Okay. Without objection, we've
23 placed this issue on the table until 9:30 tomorrow morning.
24 If there's no other comments, I move we recess until 8:30
25 tomorrow morning.

26 (Off record)

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CHAIRMAN BETTISWORTH: This is the Commission on the petition to detach certain areas from the North Slope Borough. Good morning, everyone. We've just received suggested statement of decision in response to petition for the boundary change from our Staff. And I guess with that I'd like to have Wilson Condon sort of take us through this document.

SPECIAL COUNSEL CONDON: Okay.

COMMISSIONER HANSON: Mr. Chairman.

CHAIRMAN BETTISWORTH: Mr.

COMMISSIONER HANSON: Just -- point of information. Do we need to take any action to.....

CHAIRMAN BETTISWORTH: We do.

COMMISSIONER HANSON:not have this tabled any more?

CHAIRMAN BETTISWORTH: Yes, we need to put this back on the table.

COMMISSIONER HANSON: Mr. Chairman, I move that we replace the issue of the detachment on the -- of the territory from the North Slope Borough back as our main item of business.

COMMISSIONER ANDERSON: I would second that.

CHAIRMAN BETTISWORTH: Without objection? So ordered. Mr. Condon.

1 SPECIAL COUNSEL CONDON: My apologies for taking an hour
2 longer than I said I would to get this back to you, but I just
3 could not get somebody up any earlier than 6:30 this morning
4 to do the typing. And what I've placed before you is a rerun
5 version of the suggested statement of decision which I placed
6 before you yesterday, which covered the procedural portions of
7 this decision. The only changes that have taken place in the
8 draft through page 8, from the draft that I presented to you
9 yesterday, is that we have inserted the information pertaining
10 to the newspaper publication of the notices, and that appears
11 at the top of page 6. On page 9, we have begun to insert new
12 material; that description of that detachment area -- or the
13 proposed detachment area -- what it should say is -- was taken
14 from the document which you asked us not to use, the proposed
15 decision from the Staff. I simply went to that because I
16 knew that that would be a quick place to get a couple of
17 paragraphs that describe the area. And if you want to use a
18 different description of that area, that's fine. The next
19 section, factors, I urge you to read through that section very
20 carefully and determine whether or not proceeding in the
21 manner proposed in that two pages -- or page and three-
22 quarters -- is acceptable to the Commission in terms of
23 versed the way findings and conclusions are dealt with with
24 respect to fact -- to factors and the incorporation both of
25 the proceedings yesterday -- the transcript of the proceedings

1 during the time that those considerations were on the -- being
2 considered. And then the summaries that are proposed for
3 Attachment A, which is a -- a -- the same sheets we were
4 looking at yesterday, except that there's a summary now at
5 the bottom with respect to each one of the proposed factors.
6 And finally, the introductory section to a best interest
7 determination has been written. My recommendation for --
8 for proceeding is as follows: that you review the factors
9 section and make sure that it -- that you have no objection
10 to proceeding in that manner. You then go to the 15 factors
11 sheet in the back and carefully review the pertinent facts
12 summary at the bottom of each page and make sure that you
13 don't want any additional changes made there. You'll notice
14 that we simply -- there -- there are a number of typos which
15 are in the draft, and we just didn't have time to run it out
16 again. And we can make other corrections if the Commission
17 wishes. Once you have reviewed that material, you should
18 proceed to considering the best interests of the State, the
19 territory to be detached, and the Borough in light of your
20 review of which you did yesterday and make those determina-
21 tions. Once you have made those determinations, then you
22 can -- you'll be at a point where you'll need to make more
23 decisions about where you go from there and those don't need
24 to be made now. Those are my recommendations.

25 CHAIRMAN BETTISWORTH: Is there any comments on the part

1 of the Commissioners?

2 COMMISSIONER HANSON: When rea -- in reading quickly over
3 your factors, but I'd like to read it again, take a good --
4 you're looking at the official record of -- the findings on
5 the factors has not -- not necessarily being the summaries
6 you're providing.

7 SPECIAL COUNSEL CONDON: Well, it includes the summaries,
8 and it includes the -- the conclusions reached by the Com-
9 mission during their deliberations yesterday with respect to
10 each of those 14 factors that you chose to consider.

11 COMMISSIGNER HANSON: No questions. I just suggest we
12 take a little bit of time to read this.

13 CHAIRMAN BETTISWORTH: Okay. Since we just received
14 this, I think we will take a -- what do you think?

15 COMMISSIONER HANSON: Fifteen minutes.

16 CHAIRMAN BETTISWORTH: Fifteen minutes and review this
17 document we just received and reconvene in 15 minutes.

18 (Off the record)

19 SPECIAL COUNSEL CONDON: Now, one item. What I -- I only
20 made enough copies to give the four of us up here at the
21 table one, in each of the brief filers, one -- there's some-
22 body standing by the copy machine up there waiting to run as
23 many more as necessary of the document at this stage. And if
24 I see ten hands, I'll run ten. If I see two hands, I'll run
25 two. And I see approximately a dozen, so we'll run a dozen.

1 Thank you.

2 (Off the record)

3 CHAIRMAN BETTISWORTH: I'd like to reconvene the de-
4 cisional meeting of the Local Boundary Commission, petition
5 for detachment from the North Slope Borough. Okay, we've had
6 a minute to review -- or 15 minutes to review the material
7 prepared to us -- for us by Counsel. I guess the first area
8 that he wants -- that they want us to take a look at was
9 Section 3, factors. Is there are any comments by the Com-
10 mission on that section?

11 COMMISSIONER HANSON: Mr. Chairman, I just support the
12 suggestion that the transcript of our lengthy conversations
13 yesterday be part of the findings on these factors since there
14 are many concerns and points made that it was not necessarily
15 possible to get them all in the pertinent facts summary.

16 CHAIRMAN BETTISWORTH: Any other comments? Dave?

17 (No audible response)

18 CHAIRMAN BETTISWORTH: The -- page 10 of -- don't we
19 discuss that here? Isn't that in here someplace?

20 COMMISSIONER HANSON: Yeah. That's -- yeah. Okay.
21 I just support what's on page 11.

22 CHAIRMAN BETTISWORTH: Okay, I guess what we will do

23 *

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25 *

1 next, then, was to take a look at these factor sheets and make
2 what comments we would with respect to the pertinent fact
3 summaries. I guess -- also, we need to review these interpre-
4 tations and sub-issues -- those are new elements that have
5 been placed on these factor sheets. Beginning with factor
6 number 1, are there any comments with respect to any of those
7 findings notations? Any additions?

8 COMMISSIONER HANSON: I guess those are the ones
9 where I was particularly concerned about the record of yes-
10 terday's discussion being part of the findings because there
11 are so many things you could add or delete. I have no problem
12 with it, so.....

13 CHAIRMAN BETTISWORTH: Okay. Then we'll move on to
14 number 2.

15 COMMISSIONER HANSON: I guess, Mr. Chairman, isn't it
16 implied or I could ask maybe Counsel on this. The North
17 Slope Borough's position on this talked about that this should
18 not be a comparative type of consideration. We, of course,
19 included one of many things that we looked at when we looked
20 at this standard. I -- I guess I'm just wondering, is there
21 any -- is there any need for any more clarification on your
22 last statement there, the North Slope Borough's arguments on
23 practicality are unpersuasive in light of the record as a
24 whole.

25 SPECIAL COUNSEL CONDON: I -- I don't think so.

1 COMMISSIONER HANSON: Okay.

2 CHAIRMAN BETTISWORTH: I guess on -- on my comment, I
3 think that the important part of this is that under the pro-
4 posed interpretation or definition it is -- what we said is
5 impractical is interpreted to mean unwise or imprudent. And
6 we've also noted that the provision calls for either -- we
7 have two -- two conditions to evaluate. One is -- is pre-
8 clusion, and the other one is -- is unwise or imprudent. So
9 I guess what we've -- we've essentially said is it -- in the
10 summary facts is that while it's not precluded, it is im-
11 practical under the definition. Any other comments on number
12 2? Number 3, then. Is there any comment on number 3?

13 COMMISSIONER HANSON: Mr. Chairman, I -- I'm trying to --
14 I'm wondering if this could be interpreted two ways through
15 our discussion yesterday.....

16 CHAIRMAN BETTISWORTH: No.

17 COMMISSIONER HANSON:in the way the factor ends is
18 the fact that response from an integrated local government
19 is not precluded -- in other words, we didn't find that it was
20 precluded -- is inconclusive on the resolution of the best
21 interest determinations the Commission must make. I'm won-
22 dering if on this one, as opposed to, say, number 1, where
23 we -- we -- we couldn't really come to a conclusion -- on
24 this one we came to a conclusion that it is -- you know, a
25 factor asked is a lack of communication to say is preclude --

1 communication and exchange necessary for responsive and in-
2 tegrated local government. And we did come to a conclusion
3 that it did not preclude it. And I guess I would have to --
4 you could interpret that to mean, then, that this factor does
5 not support detachment. I mean, I -- I think rather than --
6 because we could come to a conclusion on this factor, and
7 this factor asked that question. And so I -- I think it is --
8 it would be one of the considerations in our best interest
9 determinations.

10 SPECIAL COUNSEL CONDON: So you would like to say, there-
11 fore, that.....

12 COMMISSIONER HANSON: I -- I think if I'm.....

13 SPECIAL COUNSEL CONDON:our conclusions regarding
14 this particular factor do not support detachment.

15 COMMISSIONER HANSON: Right. Well.....

16 CHAIRMAN BETTISWORTH: (Indiscernible -- simultaneous
17 speech).....

18 COMMISSIONER HANSON: That's -- that's what we're.....

19 CHAIRMAN BETTISWORTH:we're discussing that.

20 COMMISSIONER HANSON:(indiscernible -- simultan-
21 eous speech)

22 COMMISSIONER HANSON: I'm trying -- I'm trying to
23 remember back to yesterday, too. Now what are your -- what
24 are your thoughts on it, sir?

25 CHAIRMAN BETTISWORTH: My -- my thoughts on this is

1 that -- in fact, what I did is I -- I extended the matrix that
2 is proposed up here and actually went through on each factor
3 and made pluses and minuses and zeroes. So that on this
4 factor, really what it comes down to is, is the factor
5 applicable with respect to the best interest determination.

6 COMMISSIONER HANSON: Uh-huh.

7 CHAIRMAN BETTISWORTH: And it isn't so much whether
8 it is a negative it's is there applicability. And.....

9 COMMISSIONER HANSON: Since it isn't precluded, there is
10 an applicability.

11 CHAIRMAN BETTISWORTH: Yeah. And I guess my rec-
12 commendation here -- and I -- I thank you for bringing this
13 up -- is that I would just strike everything from -- on that
14 last clause, the fact that responsive integrated government
15 is not precluded -- I -- I guess we -- what we need to say is
16 that -- it is not.....

17 COMMISSIONER HANSON: It is not precluded.

18 CHAIRMAN BETTISWORTH:it is not precluded,
19 period.....

20 COMMISSIONER HANSON: Period.

21 CHAIRMAN BETTISWORTH:and forget about the rest
22 of it that talks about inconclusive.

23 COMMISSIONER HANSON: Uh-huh. I -- I agree to that
24 change. And it'd just start out responding the -- the finding
25 is that.....

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CHAIRMAN BETTISWORTH: Okay. Is there any other comment?

COMMISSIONER HANSON: No.

CHAIRMAN BETTISWORTH: Factor number 4.

COMMISSIONER HANSON: Just for clarification, maybe, that we can make on this. Number 3, under pertinent facts? These latter two sub-issues, we're referring to number 2 and 3. Is -- is that your -- way you interpret that?

CHAIRMAN BETTISWORTH: Uh, yes.

COMMISSIONER HANSON: I -- maybe put in parenthesis 2 and 3 because I wasn't sure. I mean, I interpreted it that way, but I'm not -- wasn't sure -- a reader wouldn't know.

CHAIRMAN BETTISWORTH: Actually, that paren should not be under -- under 3. It should be separate.

COMMISSIONER HANSON: Separate.

UNIDENTIFIED: Yeah.

CHAIRMAN BETTISWORTH: Okay. Wilson, on this -- on the second page of 4 there's been a strike-out in the third paragraph down and written above. I can't, with my copy, fully read exactly what that says there. Could you recap that?

COMMISSIONER HANSON: Let -- let me -- let me trade.

CHAIRMAN BETTISWORTH: Here.

SPECIAL COUNSEL CONDON: This is our attempt at -- to -- to try to figure out what you were saying at the conclusion

1 when we were talking about this yesterday. And it very well
2 may not say what you were trying to say. Finally, if the
3 Northwest Artic Borough were to depend for, quote, in lieu
4 of tax payments upon the road while the North Slope Borough
5 continued to tax the mine site itself, the enterprise would
6 have to carry the full weight of the taxation of both Bor-
7 oughs. It is at least possible that this would make the mine
8 uneconomic, and hence there would be no tax base at all.

9 COMMISSIONER BETTISWORTH: That actually is exactly the kind
10 of comment that I was looking for there.

11 COMMISSIONER HANSON: Again, your last sentence -- it
12 is possible?

13 SPECIAL COUNSEL CONDON: Yes.

14 COMMISSIONER HANSON: It is -- let's.....

15 * * *

16 CHAIRMAN BETTISWORTH: No, no, that's okay. This is the
17 only question that I have.

18 SPECIAL COUNSEL CONDON: I brought them with me. I have
19 a couple copies right here.

20 CHAIRMAN BETTISWORTH: Okay. If you can get the staple
21 out.

22 SPECIAL COUNSEL CONDON: I'm sure I can.

23 COMMISSIONER HANSON: All I needed was that -- the word-
24 ing in that one line.

25 CHAIRMAN BETTISWORTH: Does someone want to give him the

1 wording in that one line now. It's got a copy before.....

2 SPECIAL COUNSEL CONDON: Well, it says it is also
3 possible.....

4 CHAIRMAN BETTISWORTH: No.....

5 COMMISSIONER HANSON: (Indiscernible) least.

6 SPECIAL COUNSEL CONDON: It is at least possible.....

7 CHAIRMAN BETTISWORTH. Oh, okay.

8 SPECIAL COUNSEL CONDON:that this would make the
9 mine uneconomic, and hence there would be no tax base at all.

10 COMMISSIONER HANSON: Okay. And then, I'm just wanting
11 to make sure that.....

12 SPECIAL COUNSEL CONDON: You'll each have copies of
13 the.....

14 COMMISSIONER HANSON:where it says -- but I'm
15 just -- the real reason.....

16 SPECIAL COUNSEL CONDON: Okay.

17 COMMISSIONER HANSON:I wanted to make sure that it's
18 a sufficiently qualified statement, and I believe it is.
19 Mr. Chairman.

20 CHAIRMAN BETTISWORTH: Yes.

21 COMMISSIONER HANSON: Up above in that one, what is the
22 status -- perhaps I can ask Counsel, what is the status of
23 the line, Commission believes that if proposed detachment is
24 not approved, there might arguably have to be compensation
25 made by the North Slope Borough to NANA to compensate NANA

1 for the impact costs, et cetera.

2 CHAIRMAN BETTISWORTH: I just -- I deleted that. I don't
3 know -- I mean, that was.....

4 COMMISSIONER HANSON: There's no disdained import to
5 this.

6 SPECIAL COUNSEL CONDON: I can't hear you.

7 CHAIRMAN BETTISWORTH: Are there any comments about
8 factor number 4? Any more comments? The one comment that
9 we had, Wilson, is just that the paren under 3 on the first
10 page should really be a general note.

11 SPECIAL COUNSEL CONDON: Number 4.

12 COMMISSIONER HANSON: It should be separated.

13 SPECIAL COUNSEL CONDON: Okay. I'm not sure (indiscern-
14 ible) what you want to do.

15 COMMISSIONER HANSON: You'd drop the -- you would drop
16 it down a line.....

17 SPECIAL COUNSEL CONDON: Okay.

18 COMMISSIONER HANSON:so that it's clear that it
19 refers to both.....

20 CHAIRMAN BETTISWORTH: Factors.

21 COMMISSIONER HANSON:factors 2 and -- or, comments
22 2 and 3.

23 SPECIAL COUNSEL CONDON: Okay.

24 COMMISSIONER HANSON: That was unclear. Just under 3.

25 CHAIRMAN BETTISWORTH: All right. Factor number 5. No

1 comment on 5? Number 6. Any comment on 6? Okay. Onto fac-
2 tor number 7.

3 COMMISSIONER HANSON: I guess I'd like to look at the
4 last paragraph in number 6 for a second to make sure that's
5 clear. In the last line, I guess. It's avoided cost for
6 services that the North Slope Borough -- I'll just read it
7 to myself. Perhaps I'm just misreading it. Could you read
8 that, perhaps, please, Mr. Condon, and could you -- are you
9 catching an awkwardness or something that I -- Commission
10 observes -- or -- Commission observes that counter bal-
11 ancing any lost revenue to the North Slope Borough which might
12 be occasioned by the detachment will be.....

13 SPECIAL COUNSEL CONDON: There will be.....

14 COMMISSIONER HANSON: There will be a savings in the
15 form of avoided costs for services that the North Slope
16 Borough.....

17 SPECIAL COUNSEL CONDON: Would not.....

18 COMMISSIONER HANSON:would not be required to
19 incur in the detached area. Okay. Thank you.

20 CHAIRMAN BETTISWORTH: Are there any other considera-
21 tions in this -- factor number 7?

22 COMMISSIONER HANSON: Perhaps my -- Mr. Chairman, per-
23 haps my concern about that last paragraph in number 7 had to
24 do just with whether or not we need any additional qualifica-
25 tion -- there will be some counter balancing, but is it clear

1 that the extent of that counter balancing is not -- is not
2 indicated?

3 CHAIRMAN BETTISWORTH: Can you say that again?

4 COMMISSIONER HANSON: Okay. I guess I'm -- I just want
5 to make sure it's clear that we were not able to come to any
6 conclusion on the extent of counter balancing -- savings of
7 service -- not having to give services.

8 CHAIRMAN BETTISWORTH: Yeah, right.

9 COMMISSIONER HANSON: Okay.

10 CHAIRMAN BETTISWORTH: It's indeterminate. Huh?

11 SPECIAL COUNSEL CONDON: We can add a sentence, if
12 you wish.

13 COMMISSIONER HANSON: I think that would be worthwhile.
14 I guess -- there's one other thing that doesn't show up here
15 that concerns me a bit, and that -- at least should be on the
16 record that we did hear and did observe that -- and it's in
17 the record, that there was a request on the part of the North
18 Slope Borough, or an issue raised by the North Slope Borough,
19 that there was -- because of this -- the financial impacts of
20 this detachment on the North Slope Borough that there should
21 be some compensation. And I guess what -- in -- in light
22 of that last paragraph, then, it would be -- I would like to
23 make sure that the record reflects the fact that we could --
24 we're finding that it's indeterminate what the impact -- that
25 impact may be and what kind of compensation would be legitimate,

1 whether it's necessary or -- or.....

2 CHAIRMAN BETTISWORTH: Yeah.

3 COMMISSIONER HANSON:if it's appropriate, or.....

4 CHAIRMAN BETTISWORTH: Yeah.

5 COMMISSIONER HANSON:it'd be -- this is probably
6 something else that if we were to go ahead with this petition,
7 we would also be dealing with in our fourth standard that
8 deals with assets and liabilities.

9 CHAIRMAN BETTISWORTH: All right. Any other comments?
10 Factor number 8. Are there any comments on factor number 8?

11 COMMISSIONER HANSON: I guess I just want to make sure
12 that the record clearly indicates a very sincere considera-
13 tion of this factor in yesterday's deliberations. I'm
14 bothered by the last sentence on the second page of factor
15 number 8, whether or not it in any way -- its reference to
16 evil, even though I understand it, would in any way infer a
17 lack of serious and sincere consideration for us. It's not
18 a word that I used and I know the Commission never used it,
19 and I would suggest that we reword that last paragraph.

20 SPECIAL COUNSEL CONDON: Perhaps we could just eliminate
21 the next to the last sentence. I mean -- and the -- the last
22 one. Stop at responsibility.

23 COMMISSIONER HANSON: And responsibly.

24 SPECIAL COUNSEL CONDON: Uh-huh. This sentence would
25 have to be.....

1 CHAIRMAN BETTISWORTH: Why don't you just take it
2 out here. Why don't you just change evil to fear and not put
3 the quotes around it?

4 COMMISSIONER HANSON: What would you call concern?

5 CHAIRMAN BETTISWORTH: Concern.

6 COMMISSIONER HANSON: Okay.

7 COMMISSIONER ANDERSON: That might be even better.

8 COMMISSIONER HANSON: Okay.

9 CHAIRMAN BETTISWORTH: Any other comment on 8? Factor 9.

10 COMMISSIONER HANSON: Under the first paragraph there,
11 I think we need to add -- we say during a public hear-
12 ing in Kotzebue. It really should be Noatak and Kotzebue.

13 SPECIAL COUNSEL CONDON: Right.

14 COMMISSIONER HANSON: And also, I think when we refer to
15 Kotzebue areas, we're really referring to the people in the
16 NANA region, and I'm not sure that's clear in a couple of
17 places in these findings. So we could either add, and the
18 NANA region. People of Noatak, Kivalina, Kotzebue, and the
19 NANA region might be a more accurate way because we did also
20 talk about concerns of the people upriver and.....

21 CHAIRMAN BETTISWORTH: Well, that's true.

22 SPECIAL COUNSEL CONDON: Yes.

23 COMMISSIONER HANSON: Ambler and Shungnak.....

24 CHAIRMAN BETTISWORTH: Yes.

25 COMMISSIONER HANSON: and that area.

1 CHAIRMAN BETTISWORTH: Yes.

2 COMMISSIONER HANSON:regarding subsistence use of
3 the detached area.

4 CHAIRMAN BETTISWORTH: We might reference just the
5 northern NANA area. The portions of the Kobuk and Noatak River
6 drainages.

7 COMMISSIONER HANSON: Well, except there's one other
8 concern here, now. The employees of Red Dog will come from
9 all the NANA region, so it might be just as easy to --
10 Kotzebue and the NANA region. Okay?

11 CHAIRMAN BETTISWORTH: Any other comment.....

12 COMMISSIONER HANSON: Noatak, Kivalina, Kotzebue, and
13 the NANA region.

14 CHAIRMAN BETTISWORTH: Any other comment on 8? Nine.
15 Factor 10. Any additions, corrections? Comments? Okay,
16 then we'll go on to factor 11.

17 COMMISSIONER HANSON: Mr. Chairman, I think that perhaps
18 our discussion on this factor, at least to -- my interpre-
19 tation of our discussion was not complete -- is not com-
20 pletely reflected here. I'm concerned about the fourth
21 paragrapn under pertinent facts. Commission finds the
22 evidence on this factor to be inconclusive on whether the
23 detachment should be approved or rejected. I don't believe
24 we came to that conclusion yesterday. I would suggest just
25 eliminating that paragraph from these facts. We -- we have

1 not yet -- especially in light of the type of best interest
2 standards we're dealing with here. I think that what a
3 particular area feels is a consideration that the Board needs
4 to be looking at, and.....

5 CHAIRMAN BETTISWORTH: Y ah, I see -- okay. I guess I
6 would agree with that, given that we've got -- actually, the
7 fifth paragraph there really.....

8 COMMISSIONER HANSON: Right.

9 CHAIRMAN BETTISWORTH:says what needs to be said.

10 COMMISSIONER HANSON: Yes.

11 COMMISSIONER ANDERSON: Yes, I would think it would be
12 good just to delete the whole paragraph.

13 * * *

14 CHAIRMAN BETTISWORTH: Any other comments on 11?

15 Factor 12? (Pause) I guess I would like to add a
16 comment here that we -- that the conditions that are applicable
17 here -- maybe it doesn't go in this place. Maybe it goes
18 over in the factor that deals with -- in fact, maybe the one --
19 one that we've already left. The comment I was going to make,
20 and maybe it needs to go on one of those other factors, is
21 that the conditions that are applicable here to perfect these
22 boundaries are not necessarily applicable in other areas of
23 the State.

24 COMMISSIONER HANSON: I think that's an appropriate
25 statement to be making because we talked about that yesterday.

1 A unique situation, this particular boundary, and the lack of
2 other organized governments right in the area. I also think
3 that we -- we did mention yesterday and go into quite a bit
4 of detail on ' economic consideration and the -- the unit
5 of the NANA region that was an eco -- was to a certain extent
6 an economic unit that seemed to be met by the proposed change.

7 CHAIRMAN BETTISWORTH: Any comment? Okay, then with
8 that we'll go on to factor 13. I guess I would like to say
9 here that in Fairbanks I made mention -- the testimony that
10 we had heard in Point Hope regarding their interest in seek-
11 ing work at the Red Dog mine site -- the term that I used at
12 that time was a term called -- it was blackmail. I guess my
13 feeling in reflecting on that is that that was probably too
14 strong a language. But I do want the record to reflect that,
15 for sure, at the current time, the -- the situation is such
16 that while permits that have been issued have -- are admini-
17 istrative-type procedures and the -- (e memorandum
18 agreement on which the detachment was submitted to the voters
19 require -- did require some local hire of people in the NANA
20 -- or the North Slope region. There's a political
21 process that would have to yet take place in terms of rezoning
22 that property as a -- as a resource use, and that in that --
23 during that period that there is the potential for some
24 leverage to be placed on the -- the developers of the mine,
25 with respect to -- to local hire. And I understand the

1 interest. I just wish that it would be noted that this -- I'm
2 not sure this is quite the right place, but that -- that ob-
3 servation I wish to be noted for the record. Is there any
4 comment?

5 COMMISSIONER ANDERSON: No.

6 COMMISSIONER HANSON: I (indiscernible) that,
7 and perhaps this is the right place since it deals directly
8 with.....

9 CHAIRMAN BETTISWORTH: Management.

10 COMMISSIONER HANSON:management and con-
11 trol.

12 CHAIRMAN BETTISWORTH: Are there any other additions to
13 the.....

14 COMMISSIONER HANSON: Yes. I have a concern about the
15 last sentence: important plan is the need for coordination
16 and communication between the NANA people and the Point Hope
17 people with regard to the regulation local government control
18 over the Red Dog development. I guess I'm wondering if it
19 should be -- I think our concern was over over-development in
20 the detached area. I want to just broaden that. And I guess
21 it's clear that the reason for the communication is the
22 environmental and subsistence concerns noted above.

23 CHAIRMAN BETTISWORTH: You might also add the issue of
24 employment.

25 COMMISSIONER HANSON: Okay.

1 CHAIRMAN BETTISWORTH: Any other comments on factor 13?
2 Factor 14 we are not using. We will then go on to factor
3 15. Any comments on factor 15?

4 COMMISSIONER HANSON: In the last paragraph. I guess I
5 also -- I -- we made a big point yesterday that the Commission
6 would be considering this particular concern if the Borough
7 formation proceeds during the Borough formation procedures,
8 which we also review. And I guess I'd like that clearly
9 noted here. There is just an add on that the Commission will
10 also be -- will consider this particular concern again when
11 they review any Borough formation action that may take place
12 in the future for NANA area Borough.

13 CHAIRMAN BETTISWORTH: Okay. We have completed the
14 review of the factors. The next order of business is to make
15 best interest determinations with respect to the best in-
16 terest of the State, the best interest of the area, and the
17 best interest of the Borough. I think an appropriate way to
18 proceed with this would be to go to each factor and each
19 Commissioner offer their observations on that factor with
20 respect to this best interest determination factor by factor.

21 COMMISSIONER HANSON: For all three areas each factor?

22 CHAIRMAN BETTISWORTH: For each -- all three areas at
23 each time. I guess starting with factor number 1, Mr. Hanson
24 what are your comments with respect to best interest?

25 COMMISSIONER HANSON: Well, I think we came to the

1 conclusion that this doesn't have a direct bearing on the best
2 interest because -- except to the fact that it does not -- it
3 does not provide a reason. We were not able to come to a
4 conclusion, but there is enough conflict where things are
5 enough substantially different to provide a reason for detach-
6 ment through this factor. So, we looked on it as a -- I
7 guess as a neutral -- had no -- as a factor we could come to
8 no conclusion on it.

9 CHAIRMAN BETTISWORTH: Is there any comment on.....

10 COMMISSIONER ANDERSON: No.....

11 CHAIRMAN BETTISWORTH:Jo?

12 COMMISSIONER ANDERSON:no, I think I have no
13 comments on that. Different comments.

14 COMMISSIONER HANSON: I -- I guess -- one conclusion
15 that we could say is that -- while not significant that there
16 are -- there is a distinct -- the last paragraph is really
17 the.....

18 CHAIRMAN BETTISWORTH: Uh-huh.

19 COMMISSIONER HANSON:the issue, and -- so, it's a
20 mildly best interest -- but I -- I'm looking at the way the
21 factor is stated, and its use is substantially different in
22 conflict, and that's the only reason that I'm being careful.
23 I -- I agree with what you're saying, but I'm not sure of
24 how important.....

25 CHAIRMAN BETTISWORTH: Well, I -- I'm having a

1 little bit of a problem with respect to best interest as
2 applied to factors. The -- as I work through this thing, I
3 have a hard time saying, all right, that factor is -- findings
4 of that factor are in the interest of the State, are not
5 necessarily in the interest of the North Slope Borough or
6 any interest in the affected area. This is one particularly
7 where that's the case; is this a statewide interest that --
8 that would be in conflict, or -- I guess it would be. So,
9 what we're really saying is that it would -- it's neutral
10 and that it's not affected.

11 COMMISSIONER HANSON: Right.

12 CHAIRMAN BETTISWORTH: Any comment?

13 SPECIAL COUNSEL CONDON: I was going to make the
14 observation -- it doesn't really make I think any legal
15 difference in which order you do this. You might find it
16 easier to just say, okay, let's talk about the State's in-
17 terest here and go down the State.....

18 CHAIRMAN BETTISWORTH: Okay.

19 SPECIAL COUNSEL CONDON:and just talk about each
20 factor and then evaluate their relative weight. I mean,
21 some of them are just not pertinent to the determination of
22 the State's interest; some of them weigh heavily, some of
23 them weigh lightly one way or the other.

24 CHAIRMAN BETTISWORTH: Uh-huh.

25 SPECIAL COUNSEL CONDON: And then make a determination

1 with respect to the State on the basis of your consideration
2 of each of those factors.

3 CHAIRMAN BETTISWORTH: Okay. I think that's a great way
4 to proceed.

5 SPECIAL COUNSEL CONDON: And then -- and then turn to the
6 detached territory, and then turn to the Borough. And you
7 don't have to discuss all of the factors in detail with respect
8 to each because some just don't apply.

9 CHAIRMAN BETTISWORTH: Okay. I -- in going through
10 these, I made up a matrix, as I said, that distributed State,
11 area, and Borough best interests with respect to factors and
12 put in pluses, zeroes, and minuses, as -- as we worked
13 through that. So, then, I could start real easy on the best
14 interest of the State and say that from my way of thinking,
15 number 4, for sure, is in the best interest of the State,
16 it's part of the constitutional mandate that we maximize or
17 promote local self government. Factor number 6, will the pro-
18 posed detachment encourage efficiency in provision of local
19 government services to the proposed detached territory. I
20 guess the finding is that it will, and that is in the interest
21 of the State. It reduces the cost of government to the State
22 of Alaska. I go to factor number 8, I've got in that case a
23 plus and a zero. Will proposed detachment strengthen or
24 weaken the longterm stability of all Boroughs around -- all
25 Boroughs and Borough finances throughout Alaska. I guess the

1 finding is that we do not consider this action to have any
2 effect on those proposed boundaries. I think it's in the
3 interest of the State that that be the case, that really what
4 we're dealing with is a singular issue here. Is there any
5 comment? I guess (indiscernible -- simultaneous speech).

6 COMMISSIONER HANSON: (Indiscernible -- simultaneous
7 speech). Should we comment on them as you go through them?

8 CHAIRMAN BETTISWORTH: Yeah, why don't we do that.

9 COMMISSIONER ANDERSON: Yeah, I think that would be best.

10 CHAIRMAN BETTISWORTH: Okay.

11 COMMISSIONER HANSON: Well, I'd like to back up then.

12 CHAIRMAN BETTISWORTH: How far?

13 COMMISSIONER HANSON: Well, I feel number 2, the fact
14 that we found under the definition of impractical that it was
15 impractical. The geographical location and configuration of
16 the territory proposed to be detached make the provision of
17 Borough services impractical from the North Slope Borough is
18 one to take into consideration it is in the State interest,
19 and that it's in the State interest to promote practical use
20 of -- practical application of government, practical use of
21 State funds. State funds are used to great degree in local
22 government also. I agree with you on the max -- the maxi-
23 mizing of State government -- or excuse me, of local govern-
24 ment. I feel that's very clear. And the efficiency, also, I
25 feel is clear. On the weaken or strengthen longterm stability,

1 though it's in the State's interest not -- you know, not to
2 make things unstable, but to strengthen things, we could argue
3 that forming a new Borough strengthens -- could be looked on
4 as strengthening stability. But I really think this one --
5 the fact that we didn't find -- we didn't find necessarily
6 either way, did we? It -- it didn't hurt the stability, and
7 -- did we find that it necessary promoted stability? I -- I
8 don't believe we found that either. So, I think I'd find
9 that as a neutral.

10 CHAIRMAN BETTISWORTH: I guess as part of the interpre-
11 tation of this, the way I look at it, is that if it -- if it's
12 a neutral.....

13 COMMISSIONER HANSON: See, we said it was.....

14 CHAIRMAN BETTISWORTH:it's really in the best
15 interest of the State that it not have any effect on any --
16 on other boundaries, right?

17 COMMISSIONER HANSON: Except it was an either/or, and
18 it didn't strengthen it, either. Our conclusion to the factor
19 -- let's see what that was.

20 CHAIRMAN BETTISWORTH: Eight. It says will the proposed
21 detachment strengthen or weaken the longterm stability of all
22 Borough boundaries and Borough finances throughout Alaska.
23 The -- I guess it won't strengthen, necessarily, or weaken.
24 It has no effect on those boundaries, but that -- and finances,
25 and that is in the interest of the State.

1 COMMISSIONER HANSON: Maybe we can -- I'm looking at.....

2 CHAIRMAN BETTISWORTH: Mr. Condon.

3 SPECIAL COUNSEL CONDON: Well, you know, that -- you --
4 you -- you need to be careful not -- not to make findings
5 that something is in the interest of the State because their
6 interest -- interest in the State obviously is in State in-
7 terest to have stable boundaries. And by finding that this
8 doesn't destabilize the boundaries, it doesn't mean that your
9 actions here make them more stable. It's like my saying,
10 well, I -- I run outside and jump in a snow bank. That
11 doesn't tend to destabilize boundaries, so you don't want to
12 make a finding that it stabilizes boundaries because it
13 doesn't have anything to do with it.

14 CHAIRMAN BETTISWORTH: Okay.

15 SPECIAL COUNSEL CONDON: So, I think that you -- that's
16 what you need to be careful of.

17 CHAIRMAN BETTISWORTH: I guess I would agree with you
18 on this one, that it's really a neutral. On number 9. Will
19 proposed detachment protect subsistence resources and balance
20 development and conservation concerns? The -- I guess our
21 determination here is that the detachment does -- does pro-
22 mote and protect. That is in the State's interest from a
23 minor standpoint, so I guess I would agree that factor number
24 9 finds in the -- based in the State's interest. We -- the
25 State has a policy that deals with subsistence uses, and.....

1 COMMISSIONER HANSON: Right. Protection of subsistence
2 resources and also bal.....

3 CHAIRMAN BETTISWORTH: Right.

4 COMMISSIONER HANSON:many policies regarding
5 balance development and conservation.

6 CHAIRMAN BETTISWORTH: On item 10.....

7 COMMISSIONER HANSON: Though we should note that this is
8 a more minor.....

9 CHAIRMAN BETTISWORTH: Right.

10 COMMISSIONER HANSON:consideration.

11 CHAIRMAN BETTISWORTH: I have this listed as neutral.

12 COMMISSIONER HANSON: I agree.

13 CHAIRMAN BETTISWORTH: Item 11. Essentially, the way I
14 looked at this was it may not have any applicability to the
15 best interest of the State. It's just that the Commission is,
16 as a body of the State of Alaska, is required to make its
17 determination.....

18 COMMISSIONER HANSON: For State interest, I think it's
19 neutral.

20 CHAIRMAN BETTISWORTH: Yeah. Okay. Twelve. Is it in
21 the State's interest to protect the boundaries of the North
22 Slope Borough and Northwest Artic Borough?

23 COMMISSIONER HANSON: I think it's in the State interest,
24 but I -- I don't -- I think it's been noted in the finding
25 that this isn't -- this is given much less weight from some

1 of the other factors.

2 CHAIRMAN BETTISWORTH: Okay.

3 COMMISSIONER HANSON: I take it, Jo, that you have no....

4 COMMISSIONER ANDERSON: I'm agreeing, or I would comment.

5 CHAIRMAN BETTISWORTH: Thirteen. I guess from the stand-
6 point that control of industrial development and management
7 and social and economic change is in the interest of the
8 State in this case, then, if we find that the finding is that
9 this factor does -- the detachment does facilitate this
10 control in that light then it's in the best interest of the
11 State.

12 COMMISSIONER HANSON: Especially since it's referring
13 to "by those communities and people most affected". I think
14 this refers back to the general promotion of local, re-
15 sponsible government.

16 CHAIRMAN BETTISWORTH: Okay. Under 15. Could the --
17 uncontrolled development occur before the proposed Northwest
18 Alaska Borough can implement its regulatory and planning
19 powers? I find that to be towards the neutral side of the
20 State's interest.

21 COMMISSIONER HANSON: Yeah. I don't think there's an
22 interest consideration -- or, I -- I mean, I don't think
23 that's a strong enough one. It should be neutral.

24 CHAIRMAN BETTISWORTH: Okay. Let's go, then, to the
25 area interests.

1 COMMISSIONER HANSON: Mr. Chairman.

2 CHAIRMAN BETTISWORTH: Yes.

3 COMMISSIONER HANSON: I'm just wondering if we should
4 quickly see if we're tracking or summarizing on my list what
5 -- see if the other Commissioners agree on the State interests.
6 It appears that we feel that the fact that the detachment
7 would maximize local self government, increase government
8 sufficiency -- efficiency, and that the -- the current
9 situation leads to on practical situations, as far as
10 government services are concerned, to the geographic situate,
11 geographic factors. And the fact that subsistence resources
12 would be protected and the boundaries more perfect, being a
13 minor concern, and the fact that it facilitates control over
14 the destiny of the local people by the local people. These
15 are the factors that we have found that make the detachment
16 appear to be in the State interest.

17 CHAIRMAN BETTISWORTH: Any comment?

18 COMMISSIONER HANSON: Is that a correct summary?

19 COMMISSIONER ANDERSON: I agree with those.

20 CHAIRMAN BETTISWORTH: Okay. I think the Commission
21 agrees with that summary. Under the best interest of the
22 area to be detached. I just know to leave these things -- we
23 -- we really do need to proceed ahead. The -- factor number
24 2 I have listed as being in the interest of the area to be
25 detached.

1 COMMISSIONER HANSON: I'd agree.

2 COMMISSIONER ANDERSON: I agree.

3 CHAIRMAN BETTISWORTH: Factor number 4 is in the interest
4 of the area to be detached. Factor number 6 is in the in-
5 terest of the area to be detached, efficiency of local gov-
6 ernment services. Factor number 9 -- 7 and 8 would be
7 neutrals, 9 would be in the interest of the area to be
8 detached; protect subsistence resources and balance develop-
9 ment and conservation concerns.

10 COMMISSIONER HANSON: I agree.

11 CHAIRMAN BETTISWORTH: Okay. Ten and 11 are neutrals.
12 Twelve would be in the best interest of the area to be
13 detached, perfecting the boundaries of the North Slope
14 Borough and the Northwest Arctic Borough. Thirteen, facilitate
15 control over industrial development. And 15, uncontrolled
16 development. They're all in the interest of the area to be
17 detached. Is there comments about those?

18 COMMISSIONER HANSON: I think my only comment is on 15.
19 Is your -- In other words -- and then I'm not sure that that
20 applies because our finding was that this is a legitimate
21 concern, it appears that adequate safeguards are being taken.
22 I'm not sure as a factor in the way it's stated that it comes
23 out is something that we really -- if we had found that
24 uncontrolled development -- it's very likely uncontrolled
25 development could occur. Then I think it would be relevant

1 to our interest determinations. Since we found the other way
2 with many qualifiers, I guess I don't think that this factor
3 is very relevant to our interest determination.

4 CHAIRMAN BETTISWORTH: Is there any comment, Jo?

5 CHAIRMAN ANDERSON: I think I would agree with Mr.
6 Hanson.

7 CHAIRMAN BETTISWORTH: Okay. In sum, then, do you.....

8 COMMISSIONER HANSON: Yes, we're again saying that --
9 that we -- after reviewing the factors we have found that the
10 detachment -- in interpreting it to mean the people who use
11 the detached -- the area proposed for detachment -- that it is
12 in their interest that the detachment be placed because it
13 promotes maximization of local government, efficiency in
14 government, the current situation being the geographic
15 situate, geographic factors, is unpractical for delivering
16 government services, that its subsistence resources or
17 balanced development will be promoted, the boundaries, to a
18 certain extent, will be protected for division between
19 these two regions, and that it will facilitate local control
20 over the development that takes place in the region, and
21 protection of the resources of the region by those most
22 affected. We have also once more indicated that factors 9
23 and 12, subsistence resources, a balanced development, and
24 protection of the boundaries, are a minor part of our deter-
25 mination on this best interest for the territory to be

1 detached. Is that accurate?

2 CHAIRMAN BETTISWORTH: I guess -- did you go to 13?
3 Did you deal with the issue of facilitate control over
4 industrial development?

5 COMMISSIONER HANSON: Yes, I did.

6 CHAIRMAN BETTISWORTH: Okay.

7 COMMISSIONER ANDERSON: I think that covers it very well.

8 CHAIRMAN BETTISWORTH: Okay. Best interest of the
9 Borough. Maybe somebody else wants to take this one
10 (indiscernible -- laughter).

11 CHAIRMAN BETTISWORTH: Want to call a recess?

12 COMMISSIONER HANSON: Do we have a door open?

13 CHAIRMAN BETTISWORTH: Is there -- Mr. Hanson, maybe
14 you would like to start us.

15 COMMISSIONER HANSON: Well, this -- this is a very
16 difficult one to deal with. I -- I guess I see the first --
17 the first factor that -- I think this is a balancing act,
18 whether or not it's in the best interest of the Borough. And
19 maybe I'll just try to go to the heart of the matter. I
20 think it is very difficult in looking at all these factors to
21 find that on the balance it is in the best interest of the
22 Borough. I don't necessarily say I can find that it is not
23 in the best interest of the Borough. The reason I have
24 trouble finding that it is in the best interest of the
25 Borough is that the public testimony -- there has been a vote

1 on the issue, which we rejected detachment of a smaller area,
2 even though where there were many benefits given to the people
3 of the North Slope Borough in that agreement that was
4 rejected. There was a petition given to us with 1,100 sig-
5 natures, which I don't think can be taken lightly. The --
6 and most of the leaders of the North Slope Borough have
7 communicated to us directly that they did not feel it was in
8 their best interest. On the -- actually, it appears they
9 would lose some tax base, though that may be neutralized to
10 some extent by a savings by not having to give services to
11 one more remote area. I guess I find number 11, factor 11,
12 to definitely show that it would not be in their interest.
13 Factor -- factor 7 on the North Slope Borough finances, I
14 think it becomes a minor factor because it doesn't appear to
15 have that much impact on the finances. But if you had to put
16 it on one side or other of the neutral column, you'd have to
17 put it on the side of probably not -- not helping. It doesn't
18 help the North Slope Borough to lose a portion of the tax
19 base. Okay. What does help the North Slope Borough if the
20 detachment goes through? The fact that government services
21 being provided now to this area are -- it appears to be an
22 impractical situation due to the geography and the fact that
23 it's an area that is used by a population outside of the
24 Borough. That -- from a government efficiency standpoint we
25 have found that it is not an efficient situation; the

1 detachment wouldn't be more efficient government, and so those
2 are on the saving side for the North Slope Borough. The fact
3 that the North Slope Borough wouldn't have to worry about this
4 development area and the coordination problems required,
5 since most of the people affected are outside of the Borough,
6 is a factor that argues that it would be in their interest.
7 And that's number 13, facilitating control. But I find that
8 the possible savings, the efficiencies, and the ease with
9 which control are -- well, the elimination of an area where
10 they have quite a coordination situation, we'll call it.....

11 (Tape change)

12 COMMISSIONER HANSON:they would lose a little bit
13 of their tax base and we cannot say definitely the savings
14 would outweigh that loss of tax base, for that is un -- in --
15 unconvulsive. So, I -- I have to find under that one that
16 we're looking just at Borough interests. I barely find -- I
17 can't find that it's in their interest; I don't know that
18 it's significantly against their interest. Jo.

19 CHAIRMAN BETTISWORTH: Jo Anderson.

20 COMMISSIONER ANDERSON: It's all -- I think he has well
21 said it. I have -- really have nothing to add, as much as I
22 would like to try to find something.

23 COMMISSIONER HANSON: Mr. Chairman, do you have comments?
24 We're open to discussion on that.....

25 CHAIRMAN BETTISWORTH: Yeah.

1 COMMISSIONER HANSON:it's very hard to try to
2 figure.....

3 CHAIRMAN BETTISWORTH: I -- I agree completely with the
4 factors that you have identified. The -- the problem that
5 really is -- factor number 11, the issue that the people there
6 are really -- have exhibited their disapproval of this action
7 through both a vote and through a petition and through all
8 our public testimony and really is very strong, but I guess
9 my comment is is that's exactly where the Local Boundary
10 Commission -- there's a need for the Local Boundary
11 Commission. And on the side of the finances, my -- I guess
12 while it looks like it could be a negative, that's really
13 uncertain at this time, they'd agree to what the negative
14 may be.

15 COMMISSIONER HANSON: Uh-huh.

16 CHAIRMAN BETTISWORTH: And, in fact, it could be a
17 positive. On factor 13 -- well, let me make sure -- your
18 negative areas are really 7 and 11, right?

19 COMMISSIONER HANSON: Yes. Primarily 7 and 11, and then
20 I -- there's an attempt -- those are balanced to some extent
21 by the efficiencies, the practicality question, which are
22 2 and 6, and number 13 that right now it isn't necessarily
23 the easiest situation for the North Slope Borough to deal
24 with the fact that the main users, a majority of the users,
25 are outside the Borough, as far as Kodiak.

1 CHAIRMAN BETTISWORTH: I guess I agree with those com-
2 ments. So, then, the way the summary comes down is is that
3 it's a -- it's not in the interest of the North Slope
4 Borough clearly -- barely not in the interest of the North
5 Slope Borough.

6 COMMISSIONER HANSON: In other words, we -- I'd like to
7 make one more comment. I think there's -- I don't know what
8 metaphor to use. Maybe a -- it's almost like this is not a
9 real significant -- I mean, when you get down to the cold,
10 hard facts, this is not a significant loss to the North
11 Slope Borough if this detachment goes through. I -- I don't
12 like using violent metaphors, but it's sort of like the
13 difference between a flesh wound and.....

14 CHAIRMAN BETTISWORTH: Decapitation?

15 COMMISSIONER HANSON: Something like that. This is
16 barely a flesh wound. And -- but I -- the way the standard
17 is stated is if in the determination of the Commission
18 detachments would be in the best interest of the State, the
19 territory to be detached, and the Borough to be affected.
20 So, I can't find that it's in their best interest. It leads
21 me to want to talk about something that was brought up in
22 both our Staff report and certain hearings, and that has to
23 do with how we deal with these best interest considerations
24 and whether -- I think we have some overriding considerations
25 here, and I'd like to ask our attorney about the approach of

1 looking at the collective.....

2 CHAIRMAN BETTISWORTH: Okay.

3 COMMISSIONER HANSON:as well.

4 SPECIAL COUNSEL CONDON: Well, the question is whether
5 you may make an overall best interest determination and what
6 the chances are pro -- what the arguments are pro and con in
7 that regard? The -- and -- and this is a legal question
8 which has been debated for some weeks, and you've had
9 opinions and briefs and various views have been expressed,
10 so you know that it's -- it's not a crystal clear question --
11 a question which has a crystal clear answer at this point in
12 time. And -- and the arguments that disfavor or that support
13 not taking an overall approach are a -- I -- I don't want to
14 call them all -- they're a literalist linguistic approach,
15 but which is a -- an approach that's often taken to resolve
16 problems like this because if you mean something and you say
17 something you say what you mean. On -- and you can read the
18 particular way these words are put together as to say that
19 you don't have the authority to go ahead and find -- rule
20 favorably on a petition for detachment unless all three
21 lights are lit. And you have a situation here where two
22 lights are lit and one isn't even about to blink, or it's
23 close to blinking but it's certainly not, and is that enough?
24 And -- and you have a -- a -- you exist as a Commission
25 because the -- the framers of our Constitution did not want

1 to have a situation where well intentioned but purely
2 parochial interests would determine the location of local
3 government boundaries, but that -- but that overall State
4 concerns not to predominate where possible in the determination
5 of those boundaries. Consequently, if it's possible to read
6 your regulations to accomplish that objective you should.
7 And so, consequently, I think that it is legally permissible
8 for you to take this regulation and interpret it to reach an
9 overall best interest determination. I say that not being
10 able to guarantee that if you do that you'll be sustained in
11 Court. I -- if I had to make the argument, I believe it is
12 the better argument, but that is my judgment, and it is a
13 judgment. And it requires to do that, though -- it requires
14 that you affirmatively make a determination that that's what
15 you want your regulation to mean. And -- and in -- so you
16 -- if you want to do that, you need to take that step, and
17 then you need to make the overall best interest determination
18 if that's your wish, and understand that you may very well
19 have bought yourself a lawsuit. But that's the way these
20 matters often have to be resolved.

21 CHAIRMAN BETTISWORTH: Are there comments on the part
22 of the Commission?

23 COMMISSION HANSON: Mr. Chairman, I -- we have heard a
24 lot of testimony on this question, and there is a -- some
25 good things that I think I put in the record, in fact, from

1 the document that Mr. Morehouse and Mr. Fisher prepared in
2 reviewing a part of that document, reviewed Boundary Com-
3 mission, responsibilities, and the reason for it. And I have
4 to say, I think that we are supposed to look at these as we
5 have so far. But I also feel that we are supposed to look
6 at it from a broader perspective -- in the overall interest.
7 I do not feel it was the intent of the framers of the Con-
8 stitution that set up the Boundary Commission with a local
9 entity having a veto power over Boundary Commission matters
10 and if something's clearly in the State interest. And I
11 think we have a situation here where if local entities were
12 to have a veto power, then there probably isn't that much
13 reason for us to be dealing as a Boundary Commission with
14 this kind of issue. You'd just find out what the local
15 entity wanted and that'd be that. So I think a larger State
16 interest is a larger picture. It's what's called for by
17 Statute. And so I would support that -- I guess I would move
18 that our interpretation of the detachment regulations include
19 a consideration of the three interests individually and
20 collectively before final determination is made on a detach-
21 ment question seriously.

22 CHAIRMAN BETTISWORTH: Is there a second?

23 CHAIRMAN ANDERSON: Yes, I'll second that.

24 CHAIRMAN BETTISWORTH: Okay. Is there any discussion
25 with respect to that motion? Motion is that we would find

1 that in review of the -- of the regulations that given the
2 constitutional mandate of the Commission that we would look
3 at the best interest determinations singularly, but also on
4 a collective or balancing situation. Is that.....

5 COMMISSIONER HANSON: Yeah, before making a.....

6 CHAIRMAN BETTISWORTH: Before making a best interest
7 determination.

8 COMMISSIONER HANSON: Yeah. I -- I'm interested, Mr.
9 Chairman and Ms. Anderson in your comments on this -- that
10 kind of approach.

11 CHAIRMAN BETTISWORTH: Well.....

12 COMMISSIONER ANDERSON: Yes, I would feel that we have
13 pretty well made a singularly.....

14 COMMISSIONER HANSON: But as far as using that kind of
15 approach.....

16 COMMISSIONER ANDERSON:best interest determination.
17 So the next step would be receive it collectively.

18 CHAIRMAN BETTISWORTH: Well, I guess I support the issue
19 that we do have a constitutional mandate and, again, it's the
20 issue of we are the people, we've been delegated the
21 responsibility to -- to weigh these various interests and
22 put them in State perspective to make a determination. And
23 to that extent, I would -- I think I agree with the motion.
24 Is there any other comments with that regard, on the
25 motion, the question? All those in favor signify by saying

1 aye.

2 COMMISSIONER HANSON: Aye.

3 COMMISSIONER ANDERSON: Aye.

4 CHAIRMAN BETTISWORTH: Aye. The motion passes
5 unanimously. The next task, then, before us is to make this
6 best interest determination. And I would -- actually, to.....

7 COMMISSIONER HANSON: Look at it collectively?

8 CHAIRMAN BETTISWORTH: Excuse me?

9 COMMISSIONER HANSON: Look at it collectively, I guess?

10 CHAIRMAN BETTISWORTH: Yes, I guess we need to look at
11 it collectively. And it's fairly simple. That before us we
12 have found that it is in the State interest, that it is in
13 the interest of the area to be detached, and that it is
14 mildly not in the interest of the Borough -- the North Slope
15 Borough. We've picked out summaries to each one of those
16 determinations.....

17 COMMISSIONER ANDERSON: Yes.

18 CHAIRMAN BETTISWORTH: Is there any other comment?

19 COMMISSIONER HANSON: Yes, Mr. Chairman, I'd like to make
20 a couple comments. One is that I -- I agree with your
21 comments. I think it's a situation where you have to back
22 away from it and just look at it. And this detachment
23 qualified by the formation of an efficient Borough that will
24 give us services for this area. It includes the people that
25 primarily use this area. It just makes a lot of sense and

1 seems to be a very wise thing to do as far as the government
2 makeup and the boundaries for local governments in Alaska. I
3 think it definitely promotes the formation of the NANA Bor-
4 ough, which is definitely in the interest of this State and
5 in the interest of that territory. Though there's been a
6 great deal of controversy about this, and a great deal of
7 opposition from people in the North Slope Borough, when you
8 look at it coldly, there just isn't that much negative impact
9 on the North Slope Borough. And I've tried real hard -- and
10 so -- like you said, it's -- we -- we find that it -- we can't
11 find that it is in the North Slope Borough's interest, but
12 it is just mildly not. I think there's common sense that
13 has to be looked at here. And that's a criteria I've always
14 tried to fall back on at the last, just say is the action
15 that we're proposing -- does it just make sense? And this
16 detachment does make sense. It does meet many of the factors
17 we were supposed to consider very strongly. I think it's
18 overwhelmingly in the State's interest and the -- and the
19 people of the State's interest. I think our considerations
20 have been very deliberate, very thorough, and that it's also
21 in the State's interest in making this determination that
22 it's showing that this Boundary Commission acts very
23 responsibly on any kind of detachment question, and it does
24 not take it lightly. So, I guess I would vote for detach-
25 ment and feel that the evidences overwhelmingly supports it

1 when you -- when you look at a total picture.

2 COMMISSIONER ANDERSON: I would like to comment also.
3 The Constitution set up -- is set up to promote the promotion
4 of local government, and this is -- this would be the first
5 new Borough in 17 years. It's.....

6 COMMISSIONER HANSON: Thirteen.

7 COMMISSIONER ANDERSON: Thirteen? Okay, I'm sorry. But
8 I would be in favor of voting for the -- to approve the
9 petition.

10 CHAIRMAN BETTISWORTH: In terms of proceedings here, we
11 -- we don't have a motion on the floor that deals with the
12 best interest determination.

13 COMMISSIONER HANSON: We -- we have a motion that deals
14 with acceptance of the petition.

15 CHAIRMAN BETTISWORTH: Right. Mr. Condon, do we need to
16 make a motion specifically about the best interest of the
17 Commission?

18 SPECIAL COUNSEL COUNSEL: I don't -- I don't believe
19 you do.

20 CHAIRMAN BETTISWORTH: Okay. Then we would go on next
21 to.....

22 COMMISSIONER HANSON: Mr. Chairman.

23 CHAIRMAN BETTISWORTH: Okay.

24 COMMISSIONER HANSON: Maybe you could summarize what
25 you feel the Commission's determination is regarding best

1 interest and make sure for the record that there is no ob-
2 jection to that (indiscernible -- simultaneous speech).

3 CHAIRMAN BETTISWORTH: Okay, I -- actually, I think that
4 what -- your statements were well taken and are on the
5 record, and if there are no objections, I think those should
6 be filed as -- along with Jo Anderson's as the opinion of the
7 -- of the Commission with respect to best interest. I think
8 it would be good if we had a motion.

9 COMMISSIONER HANSON: I -- is it -- would I -- would I
10 need to -- would we need to remand the motion on the floor
11 to have a motion on this issue. We could do that.....

12 CHAIRMAN BETTISWORTH: Well, this would -- yeah. I
13 think really what we need is maybe finding the issue of best
14 interest which is -- is really a.....

15 COMMISSIONER HANSON: Okay.

16 CHAIRMAN BETTISWORTH:where we don't need a motion.

17 COMMISSIONER HANSON: Well, no, let's -- let's go a
18 motion. But first I'd request that the -- I would like to
19 with -- without -- assuming the Chair agrees without any
20 objection, I would like to withdraw the motion on the floor
21 for acceptance of the petition.

22 CHAIRMAN BETTISWORTH: Well, couldn't this just be an
23 amendment to the main motion?

24 COMMISSIONER HANSON: Okay.

25 CHAIRMAN BETTISWORTH: But in the best interest

1 determination.

2 COMMISSIONER HANSON: Okay. Well, I'll amend the main
3 motion that the best interest determination will be stated in
4 favor of detachment in accordance with the comments made on
5 the record by Mr. Hanson and Jo Anderson as they summarized
6 the overview for the best interest determination in the
7 collective sense.

8 COMMISSIONER ANDERSON: I'll second that.

9 COMMISSIONER HANSON: Mr. Chairman, is that clear
10 enough that I'm referring to?

11 CHAIRMAN BETTISWORTH: I guess the problem is for the
12 people who are making the -- taking the record. Essentially
13 what we're finding in this is it's in our -- it's -- our
14 determination is it's in the best interest of the State, it's
15 in the best interest of the area to be detached, and from a
16 collective standpoint, then, it's our view that the best
17 interest determination as required by the regulations has
18 been met. Is that what.....

19 COMMISSIONER HANSON: Yes, perhaps you should restate
20 the amendment, then I'll -- without objection, I'll withdraw
21 the amendment, restate it that we as a Commission add an
22 amendment to our -- to -- the motion on the floor is that
23 we as a Commission find that this detachment is in the best
24 interest of the State, the best interest of the territory to
25 be detached, and from a collective over -- overall position,

1 it is definitely in the best interest of the -- of the people
2 of the State.

3 CHAIRMAN BETTISWORTH: And -- and meets the.....

4 COMMISSIONER HANSON: And meets the requirements of --
5 set forth for best interest determinations under 19AAC-10.230
6 for detachment of territory.

7 COMMISSIONER ANDERSON: Second.

8 CHAIRMAN BETTISWORTH: Okay. Any discussion? Call for
9 the question, and all those in favor signify by saying aye.

10 COMMISSIONER HANSON: Aye.

11 COMMISSIONER ANDERSON: Aye.

12 CHAIRMAN BETTISWORTH: Aye. The motion passes unani-
13 mously. We then have before us these other two issues:
14 guarantee of services and 11 assets and liabilities to be
15 divided. With respect to item number 10, the term is, if
16 pertinent. That means that if we found -- made a best
17 interest determination. But it also seems to reflect that
18 the petition itself has a qualifier in there that it only
19 takes effect -- the detachment only takes effect if the
20 Borough -- if the new NANA Borough is incorporated. That is
21 the guarantee of services, is that not right.....

22 SPECIAL COUNSEL CONDON: Yes.

23 CHAIRMAN BETTISWORTH:Mr. Condon?

24 SPECIAL COUNSEL CONDON: That's correct.

25 CHAIRMAN BETTISWORTH: Is there any comment on the part

1 of the Commissioners?

2 COMMISSIONER HANSON: I guess what we're hearing is,
3 then, legally that guarantee, or that conditional approval
4 provides for meeting the standard.

5 SPECIAL COUNSEL CONDON: That's correct.

6 COMMISSIONER HANSON: Okay. In reference, though, to
7 the concerns that have been raised, I'd also like on the
8 record that before this becomes a Borough, which means that
9 before the detachment can take place, we as a Commission
10 also have to review the Borough proceedings, and in that
11 proceeding we'll also be looking at the ability of this new
12 area to provide services. And I only say that as an explana-
13 tion of further assurance that provision of services is not
14 only provided for by conditioning approval on the establish-
15 ment of a Borough, but also on our review of a Borough
16 petition that will be before us in the future.

17 CHAIRMAN BETTISWORTH: Okay. That's for the record.

18 COMMISSIONER HANSON: Yes, that's for the record.

19 CHAIRMAN BETTISWORTH: Yeah, I think that's understood.
20 Any other comment on that issue? On 11, assets and liabili-
21 ties to be divided.

22 COMMISSIONER HANSON: Excuse me. Do we have to make a
23 finding on this?

24 CHAIRMAN BETTISWORTH: I think that in -- what I would --
25 what I would recommend then, without objection, that comment

1 and.....

2 COMMISSIONER HANSON: Stated.

3 CHAIRMAN BETTISWORTH:it's been stated in this part
4 of the record. It's our intention to take up this guarantee
5 of services at such time as we -- as we come to review the
6 NANA, or Northwest Artic Borough petition.

7 COMMISSIONER HANSON: But that our requirements are not
8 by the condition.....

9 CHAIRMAN BETTISWORTH: Right.

10 COMMISSIONER HANSON:of the Borough (indiscernible).

11 CHAIRMAN BETTISWORTH: Number 11, assets and liabilities
12 to be divided. I guess I'd like to -- I need some help
13 with this one because I'm -- maybe we should ask Staff to
14 give us some advice on assets and liabilities to be divided.

15 SPECIAL COUNSEL CONDON: You need to decide two things,
16 you need to decide whether there are any assets to be divided,
17 and you need to decide whether there are any liabilities to
18 be divided. And with respect to assets, you would normally
19 be talking about public facilities that are pertinent. Lia-
20 bilities, you'd be talking about the debts against those
21 facilities, or to what extent something's being taken away
22 which guarantees the payment of debt. And those are the
23 questions which you must address.

24 COMMISSIONER HANSON: Mr. Chairman, I will make some
25 preliminary, or starting, comments on this. Is that where

1 you'd like to proceed, or.....

2 CHAIRMAN BETTISWORTH: No, go ahead.

3 COMMISSIONER HANSON: Okay. On assets, there's quite a
4 bit in the record, but the Borough has constructed no par-
5 ticular structures in this area, has -- there is -- there are
6 no public Borough assets in the area, and I think it's on the
7 record. So, from the standpoint of defining of asset to be
8 something owned by the Borough, there are no assets to be
9 distributed. Is that -- is that your understanding?

10 CHAIRMAN BETTISWORTH: Yes.

11 COMMISSIONER HANSON: Okay. On liabilities, likewise
12 from the standpoint of direct liabilities to the Borough, it's
13 been clearly stated that the present bonds are not based upon
14 the property in this area, and there has not been direct
15 expenditures for facilities in the area for which there are
16 still outstanding liabilities that would be given to the
17 area. So, from the standpoint of liabilities meaning those
18 debts that the Borough has that are based upon the resources
19 directly of this area, or at least on structures in this
20 area, those do not exist. Is that -- is that your recollection
21 also?

22 CHAIRMAN BETTISWORTH: Yes.

23 COMMISSIONER ANDERSON: Yes, that's my -- my feelings
24 also as I remember.

25 COMMISSIONER HANSON: Okay. There are a couple of other

1 considerations, though, that have been brought up by the
2 North Slope Borough, and I guess it comes down to how you --
3 how far you define asset. Is -- they have brought up the
4 concern of loss tax base as loss of assets of the Borough,
5 and my reading of distribution of assets and liabilities --
6 I think I'd like to look at the language for just a minute
7 to deal with that, if we may have some time to -- if the
8 territory sought to be detached consists entirely of a city
9 having -- excuse me. I'll go to 19AAC-10.250(b). Is that
10 the appropriate site? "If the territory sought to be
11 detached consists entirely of territory not within a city
12 or consists of a city not having authority to provide
13 services currently provided by the Borough from which
14 detachment is sought, Commission shall determine the manner
15 in which the assets and the liabilities of the municipality
16 from which detachment is sought shall be distributed between
17 it and the State." I guess my reading of this leads --
18 would lead me -- if this hadn't have been brought to my
19 attention, I guess I wouldn't even have been considering
20 tax base. I would have been thinking of structures and
21 direct liabilities and assets. I'm interested in other
22 interpretations of this.

23 COMMISSIONER ANDERSON: Yeah, I'm interested, too.

24 CHAIRMAN BETTISWORTH: Commissioner Hanson.

25 COMMISSIONER HANSON: Should we ask Counsel for.....

1 CHAIRMAN BETTISWORTH: Advice and interpretation of this?

2 COMMISSIONER HANSON:his interpretation of that
3 section?

4 SPECIAL COUNSEL CONDON: When you're talking about assets,
5 I don't believe you're talking about tax base. When you're
6 talking about liabilities, you -- you are looking to -- to
7 debt and to the extent that there is a tax base here which --
8 had there -- if there were a tax base here upon which the
9 debts of the municipality from which you are -- local govern-
10 ment from which you were doing the detachment, you -- you'd
11 have to look and -- and see whether or not you wanted to make
12 some allocation of those liabilities. And so you need to
13 determine whether there is something here which has been used
14 to support the municipal debt of the North Slope Borough. If
15 you decide that there is, you need to divide some portion of
16 it off. If you decide that there is not, and that's some-
17 thing which you have discretion to do, and it's got to be
18 a reasonable determination, then you -- you -- the division
19 can be from zero to something to -- to whatever you think is
20 appropriate on the basis of the facts.

21 CHAIRMAN BETTISWORTH: Okay. If I were to comment,
22 the Petitioner and NANA Borough -- NANA region, and the
23 North Slope Borough all recognize that the current assessed
24 value of facilities in place at the Red Dog mine site is
25 somewheres in the order of \$600,000. That represents -- and

1 I'm not sure whether that's -- that's an assessment that the
2 Borough has made against the mine site, that that -- that has
3 been noted in those documents. That's the current value.
4 It's a very small value of the total assessed value of the
5 Borough. It seems, though, that we need to at least think
6 about -- some how or other we need to put that number into
7 the equation of things.

8 COMMISSIONER HANSON: In other words, you -- you
9 would interpret the loss of that tax base would be a -- I
10 guess where I have a hangup is that if I knew -- and it's not
11 in the record -- that, in fact, the North Slope Borough hadn't
12 submitted a tax bill to Cominco/NANA, or NANA/Cominco rele-
13 vant to that six hundred and seven -- \$600,000 asset or
14 assessed value, we'd have a handle on where we might want to
15 go.

16 CHAIRMAN BETTISWORTH: Well, that's my understanding,
17 but I -- I mean, I don't look on that as a -- that isn't a
18 public asset. I mean, that isn't like a municipal.....

19 COMMISSIONER HANSON: No, but to the degree that it
20 represents an income, a revenue source, for the North Slope
21 Borough currently, that -- is it -- is that the kind of --
22 is that the kind of a thing that we need to be looking at?
23 I guess -- Wilson, am I off track, or.....

24 SPECIAL COUNSEL CONDON: Well, it's one of the things
25 that you need to be looking at, yes. I mean, you -- you

1 have a wide range of discretion here. You can -- you can.....

2 (Tape change)

3 SPECIAL COUNSEL CONDON:debt which has been incurred
4 by the North Slope Borough as debt which has been incurred as
5 a result of the debt holders looking to all the property in
6 the Borough, that the Borough has been providing municipal
7 services to the entire area, and that you really ought to use
8 a fairly mechanical application of allocating that debt out
9 to the dollars of tax base that are there. You can go from
10 that extreme to the other end of the continuum of -- by -- by
11 looking at the debt having been incurred on a regional basis,
12 or you can say that -- that the debt holders here have
13 really been willing to provide the debts, buy the bonds of
14 the North Slope Borough based on the petroleum assets that
15 are -- that are available to pay local property taxes. And
16 I, frankly, am not familiar with the record in this regard in
17 this proceeding, so I'm certainly not in a position to -- to
18 make a recommendation on the exercise of that discretion.

19 CHAIRMAN BETTISWORTH: I guess from my standpoint,
20 then, I -- my recollection of the record indicates that the
21 potential assets and current assets at the Red Dog mine site
22 have not been a part of the Borough's.....

23 COMMISSIONER HANSON: Bond.

24 CHAIRMAN BETTISWORTH:bond indebtedness capability
25 To that -- bonded indebtedness. I guess to that extent, then

1 I guess we would find that there would be no -- that there
2 are no assets and there's, necessarily, then, there's no need
3 to distribute any -- any liability.

4 COMMISSIONER HANSON: Mr. Chairman, I -- I would agree
5 with that interpretation partially because the exercise we've
6 just gone through -- well, first of all, I think that's more
7 the usual approach of assets and liabilities. I -- and before
8 the North Slope Borough brought this up, I certainly wouldn't
9 have considered compensation for a very small portion of
10 their tax base being detached when there were no other assets
11 and liabilities at all. So I guess I can't call it that.
12 Second, the tax base issue was really one thing we put great
13 weight on in considering whether or not the best interests
14 were served with this detachment. And I -- I think that's
15 the appropriate place for tax base questions to be considered.

16 COMMISSIONER ANDERSON: I would agree with Mr. Bettis-
17 worth completely on your comments.

18 CHAIRMAN BETTISWORTH: Okay, then, on this issue then,
19 it's the finding of the Commission that there are no assets
20 in place in the detached area and no liabilities against
21 those assets to be divided. Is there any comment on that
22 issue?

23 COMMISSIONER HANSON: No comment.

24 CHAIRMAN BETTISWORTH: Okay.

25 COMMISSIONER HANSON: I agree.

1 CHAIRMAN BETTISWORTH: We have a motion on the floor
2 before us with respect to the approval of the petition. I
3 guess one comment I'd like to make is that there was a question
4 with respect to the boundary, and it's deleted in the technical
5 description of the boundary and disclosure. It's my under-
6 standing that that problem has been corrected. I would also
7 like to say that with respect to any of the facts associated
8 with this, I mean specific, pertinent dates, times, that
9 kind of thing, it's the Commission's opinion that those kinds
10 of problems will be taken care of by Staff at the completion
11 of the formulation of this -- this issue. That basically
12 what we're -- we're deciding on are other issues associated
13 with the petition. So, there's a motion on the floor before
14 us to approve the petition.

15 COMMISSIONER HANSON: Mr. Chairman.

16 CHAIRMAN BETTISWORTH: Mr. Hanson.

17 COMMISSIONER HANSON: If I could make one comment.
18 Should we ask Counsel -- I'd like to ask him for our pro-
19 cedures from this point before we -- if there's anything else
20 that should be considered before we vote on this motion re-
21 garding procedures or anything like that.

22 SPECIAL COUNSEL CONDON: I'm not aware of any.

23 COMMISSIONER HANSON: Okay.

24 CHAIRMAN BETTISWORTH: Any comments on the part of the
25 Commission? Okay, call for the question. I would like to

1 have a voice vote on this. Mr. Hanson.

2 COMMISSIONER HANSON: Aye.

3 CHAIRMAN BETTISWORTH: Mrs. Anderson.

4 COMMISSIONER ANDERSON: Aye.

5 CHAIRMAN BETTISWORTH: I vote aye. The motion passes
6 unanimately. With that, then, we'll take a brief recess and
7 come back to take up other matters.

8 (Off the record)

9 CHAIRMAN BETTISWORTH: Okay, we'll reconvene the
10 decisional session. Counsel has requested that we take --
11 that they have until 3 o'clock to draft up the statement of
12 decision. We have other statements of decision to look at.
13 I would recommend that we recess for lunch until 2:30, at
14 which time we will then take up statements -- the other
15 statements of decision, and then proceed on to the statement
16 of decision on North Slope at 3 o'clock. With that we will
17 recess until 2:30.

18 (Off the record)

19 *

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10 CHAIRMAN BETTISWORTH: We'll reconvene. Meeting of the

11 Local Boundary Commission, January 19th, 1986. We have before

12 us a statement of decision in response to petition for local

13 boundary government -- local government boundary change

14 detach from North Slope Borough territory within and adjacent

15 to the NANA region. You've had a chance to take a look at

16 this document. Is there any comments on the part of the

17 Commissioners?

18 COMMISSIONER HANSON: Mr. Chairman, I guess I'm still

19 completing.....

20 COMMISSIONER ANDERSON: I haven't finished this yet.

21 CHAIRMAN BETTISWORTH: You haven't finished?

22 COMMISSIONER ANDERSON: No.

23 CHAIRMAN BETTISWORTH: Well, I guess we'll go back into

24 recess.

25 (Off the record)

1 CHAIRMAN BETTISWORTH: Okay. We'll get back on the
2 record here. We have before us a statement of decision on
3 the North Slope Borough detachment. Is there any comments on
4 the part of the Commissioners with respect to this statement
5 of decision?

6 COMMISSIONER HANSON: Mr. Chairman, I think it's a well
7 done statement of decision. My only comment would be on
8 page 14, and I'd ask Counsel if there's a technicality that
9 needs to be clarified or not. It's under distributions of
10 assets and liabilities. The -- the last sentence says, "The
11 Commission determines that no assets and no liabilities shall
12 be distributed to the State pursuant to 19AAC-10.250(b)."
13 Is it necessary to also say the -- the Borough in this case
14 or not?

15 SPECIAL COUNSEL CONDON: I don't think so.....

16 COMMISSIONER HANSON: Okay.

17 SPECIAL COUNSEL CONDON:because of the -- the regs
18 provides for distributing to the State, and I'm not even sure
19 that you could -- I think it is the North Slope Borough.

20 COMMISSIONER HANSON: Okay.

21 SPECIAL COUNSEL CONDON: So, we're -- you're -- we're
22 talking about assets and liabilities that now belong to the
23 North Slope Borough, both of them. And the question is
24 whether any of them pass to the State and collaterally to
25 the -- derivatively to the proposed Northwest Artic Borough,

1 and your determination is that none do. They all stay where
2 they are with (indiscernible) the North Slope Borough. so,
3 it's fine.

4 COMMISSIONER HANSON: Okay. Thank you.

5 CHAIRMAN BETTISWORTH: Any other comments?

6 COMMISSIONER ANDERSON: As Mr. Hanson said, I think it's
7 been very well done.

8 SPECIAL COUNSEL CONDON: Thank you.

9 CHAIRMAN BETTISWORTH: I guess -- let's see, what did
10 we do before? I guess we had -- we had a motion, or -- I
11 guess without objection, then, we'll accept this document as
12 complete and we'll sign off on it. I guess on my part, I'd
13 like to thank the Staff, and when I say Staff, I want to start
14 over here with Gene King (ph) and Dan Barkworst (ph) and the
15 rest of the people from CRNA that's really helped us,
16 particularly Gene (ph) on -- on this project -- Gene (ph)
17 and Dan and the rest of the people with CRNA for all their
18 work over the whole year. It's been not an easy year. And
19 then I'd also then like to thank Wilson and your staff for a
20 lot of hard work on this specific issue. I think that this
21 is, again, well done, and I feel real comfortable that we're
22 going to -- we've got a document that we can -- we can all
23 defend if we have to. And I'd like to thank the Commissioners.
24 Guys. It was a tough one, but we got through it, too. I
25 guess with that, I'm -- let's sign this -- one of these and

1 we'll adjourn.

2 COMMISSIONER ANDERSON: May I please second your past
3 words to the Staff and to Wilson and his staff.

4 SPECIAL COUNSEL CONDON: Well, I'd just like to -- since
5 you weren't here, I'd say it was really fun working with you.
6 You folks exemplify the best in democratic government. I
7 mean, I got paid to come and do all this work, and you
8 people have been doing this on your own time, and it's really
9 quite admirable. I'd -- I'd also just like to acknowledge
10 Bob Stoller, who's an attorney in Anchorage who's been working
11 with me. He's not a member of my firm but -- on his own, but
12 somebody who I bring in to help me when I work on projects
13 like this, and legal assistant Peter Moore at the back of the
14 room who was also here and they -- since they worked hard,
15 I'd like to recognize them. They had a lot to do with this.
16 So, thanks.

17 COMMISSIONER HANSON: Mr. Chairman, I'd just like to
18 second all of our thank you's, and thank you as Chairman for
19 chairing a very difficult series of meetings and hearings.
20 It was very well done.

21 CHAIRMAN BETTISWORTH: Thank you, Mr. Hanson. I guess
22 with that, we're adjourned.

23 *** END OF PROCEEDINGS ***
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25