

LOCAL
Boundary
Commission

1 of 4

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

CRA 2-5-85 3:36 pm
2-19-85 3:45 pm
2-21-85 3:50 pm
2-28-85 3:37 pm

Alaska State Legislature

Senate

Committee on Community and Regional Affairs



Official Business

Senator Edna DeVries, Chairman
Members:
Senator Ferguson, Vice Chairman
Senator Coghill
Senator Sturgulewski
Senator V. Fischer

Pouch V
Juneau, Alaska 99811

Summary of Local Boundary Commission Report 2/5/85

The Commission approved the incorporation of Nikiski as a 1st Class city and the electorate rejected incorporation 570 to 29.

The Commission has yet to take final action on the incorporation of Nabesna as a 2nd class city.

The Commission approved the incorporation of Bettles Field as a 2nd class city and an election will be held in April.

Municipal boundary changes were made in Klawock, Hoonah, Soldotna, Homer, Palmer, North Pole, and Kodiak.

The City of Akiachak has petitioned for dissolution; hearing has been scheduled for March 2.

The two major actions taken by the Commission are the proposed annexations to Fairbanks and Togiak.

FAIRBANKS

The City of Fairbanks petitioned for the annexation of 117 acres. Of the 117 acres, 77 make up the Jones Subdivision with a population of approximately 96 residents; and 40 acres are under development by Wise Enterprises. The City of Fairbanks and privately-owned College Utilities Corporation have both petitioned the Alaska Public Utilities Commission for the right to provide utilities to the area of annexation. A decision has not been issued by the APUC. The Local Boundary Commission has approved the City of Fairbanks annexation request without modification. Wise Enterprises has filed an appeal regarding the decision in Superior Court. City of Fairbanks says that the Attorney General has made a motion to dismiss the appeal as frivolous. Wise Enterprises says they have no information to this effect. The Department of Community and Regional Affairs recommended approval of the Fairbanks petition.

TOGIAC

The City of Togiak petitioned for the annexation of Togiak Bay, consisting of approximately 183 square miles. The area has no permanent residents but does have a large seasonal influx of population associated with commercial fishing. The City would generate revenues from the collection of raw fish taxes and proposes to provide public safety and other municipal services to the transient Togiak Bay residents. The Department of Community and Regional Affairs recommended that the Togiak petition for annexation be denied.

STATE OF ALASKA

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

LOCAL BOUNDARY COMMISSION

BILL SHEFFIELD, GOVERNOR

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January 23, 1985

The Honorable Don Bennett
Senate President
Pouch V
Juneau, Alaska 99811

Dear Senator Bennett:

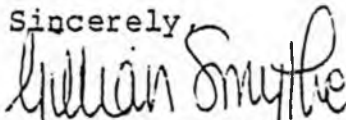
Attached is the report to the First Session of the Fourteenth Legislature on the activities of the Alaska Local Boundary Commission during 1984. The report contains recommendations for the annexation of territory to the Cities of Fairbanks and Togiak.

Pursuant to Article X, Section 12 of the Alaska Constitution and Section 29.68.010(a) of the Alaska Statutes, 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. The members of the Local Boundary Commission anticipate meeting with the members of the Community and Regional Affairs Committees of the House and Senate to discuss this report during the first week in February.

March 11

A copy of the attached report has also been provided to the Speaker of the House.

Sincerely,



Gillian Smythe
Chair

ALASKA LOCAL BOUNDARY COMMISSION

REPORT TO THE FIRST SESSION OF THE
FOURTEENTH LEGISLATURE ON CALENDAR YEAR
1984 ACTIVITIES AND RECOMMENDATIONS FOR
CHANGES TO THE BOUNDARIES OF THE FOLLOWING
MUNICIPALITIES:

1. CITY OF FAIRBANKS (ELECTION DISTRICT 20)
2. CITY OF TOGIAK (ELECTION DISTRICT 26)

JANUARY 23, 1985

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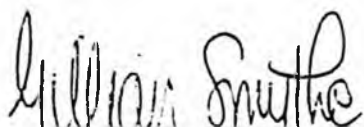
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PREFACE

This document provides a report of the activities of the Alaska Local Boundary Commission during 1984 and contains recommendations to the First Session of the Fourteenth Legislature for changes to the boundaries of the Cities of Fairbanks (Election District 20) and Togiak (Election District 26).

Pursuant to Article X, Section 12 of the Alaska Constitution and Section 29.68.010 of the Alaska Statutes, the boundary changes recommended in this report become effective forty-five days after they are presented to the Legislature (March 10, 1985) or at the end of the Session, whichever is earlier, unless they are expressly disapproved by a concurrent resolution of the Legislature.

The members of the Local Boundary Commission look forward to the opportunity to meet with the Community and Regional Affairs Committees of the House and Senate to discuss the recommendations contained in this report.



Gillian Smythe
Chairman
Alaska Local Boundary Commission

January 23, 1985
date

INTRODUCTION

The Local Boundary Commission was established pursuant to Article X, Section 12 of the Alaska Constitution and Section 44.47.565 of the Alaska Statutes. It is the primary role of the Commission to review and act upon proposals for the formation of municipal governments, changes to the jurisdictional boundaries of municipal governments and the dissolution of municipal governments.

The Local Boundary Commission consists of five members, one from each of the four Judicial Districts of the State, plus one member who serves at-large. The Commission members are appointed by the Governor and serve without compensation at the pleasure of the Governor.

The current members of the Commission are:

Gillian Smythe, Chairman, serving at-large, current term expires January 31, 1987;
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;
David G. Hanson, serving from the Third Judicial District, current term expires January 31, 1988;
Charles Bettisworth, serving from the Fourth Judicial District, current term expires January 31, 1990.

Technical and administrative support to the Local Boundary Commission is provided by the Department of Community and Regional Affairs, Division of Municipal and Regional Assistance.

The following provides a brief description of the procedures and different types of actions through which the Commission fulfills its responsibilities.

FORMATION OF MUNICIPAL GOVERNMENTS: City and borough governments are incorporated under the provisions of State laws and administrative regulations. The Local Boundary Commission reviews and acts on all petitions for municipal incorporations in accordance with AS 29.18.011-150, 19 AAC 10.010-030, 19 AAC 10.160-180 and 19 AAC 10.325-440. If the Commission approves a petition for the incorporation of a municipal government, it must also be approved by the voters of the territory proposed for incorporation before the incorporation is effected.

MUNICIPAL BOUNDARY CHANGES: Annexations and detachments may be effected by Local Boundary Commission action through either of the two following general procedures:

- A. Legislative Review - Section 29.68.010(a) of the Alaska Statutes and Sections 19 AAC 10.065-090 and 19 AAC 10.450-620 govern boundary changes related to the legislative review process. This process requires approval of a proposed boundary change by both the Local Boundary Commission and the State Legislature. This process is being used for the two proposed boundary changes recommended for approval by this Session of the Legislature, i.e. for the Cities of Fairbanks and Togiak.

The legislative review process is often initiated by municipalities in circumstances where there is a compelling public need for a boundary change, but where a majority of the residents in the territory involved in the proposed boundary change may not support it. However, such is not the case in the territory proposed for annexation by either the City of Fairbanks or the City of Togiak.

The Commission always conducts a public hearing in the municipality proposing the boundary change under this process. If, following the hearing, the Commission determines that the proposed boundary change meets the standards established by laws and regulations, the Commission presents its recommendation for the boundary change to the Legislature during the first 10 days of any regular session. The recommended change becomes effective 45 days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution receiving concurrent approval from a majority of the members of each house.

- B. Local Action - Section 29.68.010(b) of the Alaska Statutes and Sections 19 AAC 10.065-090 and 19 AAC 10.630-730 govern boundary changes related to the local action process. Municipal boundary changes proposed under this process do not require a review by the Legislature. The following discussion examines the three different types of boundary changes which may be effected under the local action process:

- i. Under the provisions of Section 29.68.010(b)(1) of the Alaska Statutes, territory may be annexed or detached through election by the residents of the territory. To become effective the proposed boundary change must be approved by the Local Boundary Commission and by a majority of voters in the territory proposed for annexation or detachment.

2. Under the provisions of Section 29.68.010(b)(2) of the Alaska Statutes, 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 filing of the notice of the adoption of the ordinance with the Department of Community and Regional Affairs.
3. Under the provisions of Section 29.68.010(b)(3) of the Alaska Statutes, an area adjoining a municipality may be annexed or detached if all of the property owners and all of the registered voters who reside within the territory petition for the boundary change. The annexation or detachment becomes effective through the adoption of an ordinance by the governing body of the municipality and the consent of the Local Boundary Commission.

DISSOLUTION OF MUNICIPAL GOVERNMENTS: The dissolution of a municipal government may be carried out in accordance with Sections 29.68.500-580 of the Alaska Statutes and Sections 19 AAC 10.130-150 and 19 AAC 10.260-280 of the Alaska Administrative Code.

Proposed dissolutions must be approved by the Local Boundary Commission. If a proposed dissolution 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.

SUMMARY OF ACTIVITIES OF THE
LOCAL BOUNDARY COMMISSION DURING 1984

Listed below are the petitions concerning proposed municipal incorporations, boundary changes and dissolutions which were brought before the Commission in 1984. While the majority of the petitions have been acted upon, several are currently pending before the Commission, as noted below.

MUNICIPAL INCORPORATIONS:

NIKISKI (ELECTION DISTRICT 7) - The Commission approved the petition for the incorporation of Nikiski as a city of the first class. The territory proposed for incorporation encompassed approximately 30 square miles. An election on the question of incorporation was subsequently held, with the residents of the territory rejecting the proposal to incorporate by a margin of 570 to 29.

NABESNA (ELECTION DISTRICT 17) - The Commission is scheduled to conduct a hearing on January 26, 1985 to consider the incorporation of Nabesna as a city of the second class. The territory proposed for incorporation has a population of approximately 36 and encompasses approximately 258.7 square miles. The Commission has three alternatives in acting upon the petition; it may deny the petition, it may approve the petition as presented, or it may modify the boundaries of the territory proposed for incorporation and approve the petition.

BETTLES FIELD (ELECTION DISTRICT 24) - The Commission approved the petition for the incorporation of Bettles Field as a city of the second class. The territory proposed for incorporation was reduced by the Commission from approximately 36 square miles to approximately 1.59 square miles. An election on this matter to determine whether the community residents will approve the proposal to incorporate is anticipated to be conducted by the Lieutenant Governor's Office in April of 1985. If incorporated, the name of the government would be the City of Bettles.

MUNICIPAL BOUNDARY CHANGES - LEGISLATIVE REVIEW:

CITY OF FAIRBANKS (ELECTION DISTRICT 20) - The Commission approved the petition for the annexation of approximately 117 acres bounded by Peger Road, Davis Road and Hill Road. Details concerning this proposed annexation are contained in the recommendation for the annexation of this territory found on page 7 of this report.

CITY OF TOGIAC (ELECTION DISTRICT 26) - The Commission approved the petition for the annexation of Togiak Bay encompassing approximately 183 square miles. Details concerning this proposed annexation are contained in the recommendation for the annexation of this territory found on page 11 of this report.

CITY OF UNALASKA (ELECTION DISTRICT 26) - The City of Unalaska petitioned for the annexation of an approximately 1,251 square mile area. However, the City has asked that its petition be withdrawn from possible consideration by the First Session of the Fourteenth Legislature.

MUNICIPAL BOUNDARY CHANGES - LOCAL ACTION:

CITY OF KLAWOCK (ELECTION DISTRICT 2) - Approximately 6.52 acres were annexed.

CITY OF HOONAH (ELECTION DISTRICT 2) - Approximately 1,130 acres were annexed.

14.30 selection

CITY OF SOLDOTNA (ELECTION DISTRICT 5) - Approximately 40.79 acres were annexed.

CITY OF HOMER (ELECTION DISTRICT 5) - Approximately 10.67 square miles were annexed.

CITY OF PALMER (ELECTION DISTRICT 16) - Ten separate actions were approved resulting in the annexation of parcels amounting to 2.01 acres, 0.39 acres, 14.20 acres, 3.04 acres, 9.54 acres, 5.06 acres, 222 acres, 7.96 acres, 23.37 acres and 0.79 acres.

CITY OF NORTH POLE (ELECTION DISTRICT 18) - Three separate actions for annexation were approved resulting in the annexation of parcels amounting to 137 acres, 116.07 acres and 190 acres.

CITY OF KODIAK (ELECTION DISTRICT 27) - Two separate actions for annexation were approved resulting in the annexation of parcels amounting to 10.92 acres and 10.5 acres.

MUNICIPAL DISSOLUTIONS:

CITY OF AKIACHAK (ELECTION DISTRICT 25) - Residents of Akiachak have petitioned for the dissolution of the City of Akiachak which was incorporated in 1974. The Local Boundary Commission has scheduled a hearing on the petition to be conducted in Akiachak on March 2, 1985.

STATE OF ALASKA
LOCAL BOUNDARY COMMISSION

RECOMMENDATION NUMBER ONE TO THE
FIRST SESSION OF THE FOURTEENTH LEGISLATURE

RECOMMENDATION FOR THE ANNEXATION OF TERRITORY
TO THE CITY OF FAIRBANKS

SUMMARY OF PROPOSED ACTION

The City of Fairbanks petitioned for the annexation of approximately 117 acres of land contiguous to the City and bounded by Peger, Davis and Hill Roads. The petition for annexation was authorized by Fairbanks City Ordinance Number 4351 and 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 held its hearing on the petition in Fairbanks on November 30, 1984.

Approximately 77 of the 117 acres proposed for annexation were subdivided for residential/business purposes. The subdivision, known as the Jones Subdivision, contained a population of 96 individuals, approximately 35 dwellings and a small number of businesses. The balance of the territory, comprised of one 40 acre parcel, was under development. A 142 unit adult apartment complex was under construction on the 40 acre parcel; none of the apartments were yet occupied. An additional 408 apartments were planned for development, which would bring the total number of apartments within the complex to 550.

Both the City of Fairbanks and the privately-owned College Utilities Corporation had petitioned the Alaska Public Utilities Commission for the authority to provide water and sewer utilities service to the territory proposed for annexation. The decision rendered by the Local Boundary Commission on this annexation is not to be construed as being a judgment on the respective abilities of the competing utilities to provide service to the area being annexed to the City of Fairbanks.

Mr. Dennis Wise, the developer of the apartment complex, opposed the annexation of his 40 acre parcel principally on the grounds that he would prefer the College Utilities Corporation to provide water and sewer utilities services and because he opposed regulation of the construction of his project by the City Building Department.

The area proposed for annexation is within the Fairbanks North Star Borough, which has expressed no objections to the proposed annexation and has indicated to the City of Fairbanks that it

has no assets or liabilities within the area which would be acquired or incurred by the City of Fairbanks should the annexation be effected.

FINDINGS OF FACT

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

1. The area proposed for annexation is within the Fairbanks North Star Borough which expressed no objections to the proposed annexation.
2. The territory proposed for annexation includes two distinct areas; the Jones Subdivision and Mr. Wise's development.
3. Only the Jones Subdivision is presently developed, with a population of 96 residents, according to the Borough.
4. There is no evidence of substantial opposition to the proposed annexation from the residents of the Jones Subdivision. No polling of residents' preferences regarding annexation was undertaken by the City. However, testimony by a resident of the Jones Subdivision indicated that nearly every household had been contacted concerning the proposed annexation and that only three residents were opposed to the proposed annexation. Notice of the Commission's hearing was extensive, in that it was published three times in the Fairbanks Daily News-Miner. Further, a resident of the subdivision testified that she had personally delivered copies of a notice of the meeting to each household in the subdivision.
5. The Jones Subdivision area is in need of the following City services which it does not presently receive: road construction and maintenance and drainage control.
6. The Jones Subdivision is urban in character: it has a population density of 798 residents per square mile, which is greater than the City as a whole. Additionally, it contains significant residential and commercial development and the property is subdivided.
7. The 40 acre parcel of land owned by Mr. Wise is also urban in character. The property is being developed for residential purposes and the anticipated population density of this parcel of land will be much greater than that of the City as a whole.
8. The current and anticipated future development of the 40

acre parcel of land owned by Mr. Wise will result in the generation of demand for municipal services which can be most efficiently provided by the City of Fairbanks. The anticipated demand for municipal services is particularly great with respect to road maintenance and drainage.

9. The annexation of Mr. Wise's development would enable the City of Fairbanks to exercise a desirable degree of control over development of that property. In particular, the Commission finds that the health and safety of the future occupants of the development would be better ensured if the development were subject to the City's building codes.
10. The question of the health, welfare and safety of City residents being endangered by conditions existing or developing within the property owned by Mr. Wise was raised, particularly with respect to the apparent significant increase in vehicular traffic which will result from the development, regardless of whether future residents of the Wise property exit on 19th or Davis Road. However, the Commission made no determination as to what extent such traffic might endanger the health, safety or welfare of City residents.
11. The City of Fairbanks has made a good faith attempt to ensure that the voting rights of people in the territory proposed for annexation will not be adversely affected by the annexation. The City's actions in this regard include evaluating the ethnic population composition of the area proposed to be annexed in relation to overall City and Borough patterns; and contacting representatives of various minority groups. No adverse comments were offered regarding the possible infringement on voting rights at the Commission's hearing.

STATEMENT OF DECISION

Based on the aforementioned facts, all of the members of the Commission who were present at the hearing and subsequent decisional session have determined that both the Jones Subdivision and the Wise property meet many of the standards for the annexation of contiguous territory to a city. Therefore, the September 12, 1984 petition of the City of Fairbanks for the annexation of territory was approved without modification by the Local Boundary Commission.

RECOMMENDATION

On this basis, the Local Boundary Commission hereby recommends to the First Session of the Fourteenth Legislature that the territory described below be annexed to the City of Fairbanks:

The SW 1/4 of the NE 1/4 of Section 17, T1S, R1W, F.M. and the E.M. Jones Homestead Subdivision recorded in the Fairbanks District Recorders Office as Instrument Number 156.156 on May 25, 1955, the exceptions to these contiguous areas are as follows: those portions of Peger Road and Davis Road rights-of-way that lie within these areas and all of Block 3 of the same E. M. Jones Homestead Subdivision.

NOTE

On January 11, 1985, Dennis Wise and Wise Enterprises, Inc., filed an appeal of the decision of the Local Boundary Commission regarding this matter in Superior Court.

STATE OF ALASKA
LOCAL BOUNDARY COMMISSION

RECOMMENDATION NUMBER TWO TO THE
FIRST SESSION OF THE FOURTEENTH LEGISLATURE

RECOMMENDATION FOR THE ANNEXATION OF TERRITORY
TO THE CITY OF TOGIAC

SUMMARY OF PROPOSED ACTION

The City of Togiak petitioned for the annexation of Togiak Bay, consisting of approximately 183 square miles of territory contiguous to the City. 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 area proposed for annexation consisted of Togiak Bay up to the mean high tideline and bounded on the south by a straight line between the southernmost points of Rocky Point and Tongue Point. Togiak Bay is an area of intense commercial fishing activity during the spring and summer months. The only permanent structure within the territory proposed for annexation is a portion of a cannery operated by Togiak Fisheries, Incorporated. The territory proposed for annexation has no permanent residents, with the possible exception of a watchman employed by Togiak Fisheries, Incorporated. However, the area experiences a large seasonal influx of population associated with commercial fishing, fish processing and related activities during the spring and summer months.

On January 12, 1985, the Commission conducted a hearing on the petition for the annexation in Togiak at the Togiak High School Gymnasium. Both written and oral testimony received by the Commission served to accentuate the frequency and severity of public safety problems attributable to heavy traffic in liquor in Togiak Bay during the fishing seasons. Testimony of local officials, primary health care providers and private individuals emphasized the futility of efforts to prevent the sale and importation of alcohol within the present municipal boundaries of Togiak because of the ready availability of alcoholic beverages from vessels in Togiak Bay during the commercial fishing seasons.

FINDINGS OF FACT

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

- I. THE TERRITORY IS IN NEED OF MUNICIPAL SERVICES WHICH THE CITY CAN PROVIDE MORE EFFICIENTLY THAN ANOTHER MUNICIPALITY.
 - A. Testimony by the City of Togiak and local residents demonstrated that police protection in Togiak Bay is needed to effectively enforce the local ban on the importation and sale of alcohol, especially during the herring and salmon commercial fishing seasons, and that these services are not being effectively provided by the State of Alaska. A neighboring community, Twin Hills, is unincorporated and is presently provided with police protection services by officers from Togiak. Thus, the City of Togiak could provide the needed police protection services more efficiently than any other municipality.

- II. THE HEALTH, WELFARE OR SAFETY OF CITY RESIDENTS IS ENDANGERED BY CONDITIONS EXISTING OR DEVELOPING IN THE TERRITORY AND ANNEXATION WILL ENABLE THE CITY TO REMOVE OR RELIEVE THOSE CONDITIONS.
 - A. Testimony concerning alcohol-related accidents and public health problems which was given by local law enforcement officials, primary health care providers and private citizens gave strong support to the petitioner's assertion that the health and welfare of city residents is endangered by activities in Togiak Bay, especially during the commercial herring and salmon fishing seasons. Alcohol was cited as a factor in several drownings in Togiak Bay during the past 3 or 4 years.
 - B. Additional revenues generated by raw fish taxes which the City of Togiak could expect to receive as a result of annexation of Togiak Bay would provide financial resources sufficient to purchase needed equipment such as a boat and to hire trained personnel to enforce the City's prohibition of the sale and importation of alcohol in the community.

- III. RESIDENTS OR PROPERTY OWNERS WITHIN THE TERRITORY RECEIVE OR MAY REASONABLY BE EXPECTED TO RECEIVE, DIRECTLY OR INDIRECTLY, THE BENEFIT OF CITY GOVERNMENT WITHOUT COMMENSURATE PROPERTY TAX CONTRIBUTIONS, WHETHER CITY SERVICES ARE RENDERED OR RECEIVED INSIDE OR OUTSIDE THE CITY.
 - A. Primary health care, public safety and other municipal services are available to transient Togiak Bay residents. These people presently do not contribute directly to the local support of such services.

STATEMENT OF DECISION

Based on the aforementioned facts, all of the members of the Commission who were present at the hearing and subsequent decisional session have determined that the petition submitted by the City of Togiak for the annexation of Togiak Bay meets several of the standards for the annexation of contiguous territory to a city. Therefore, the September 18, 1984 petition of the City of Togiak for the annexation of territory as described in Togiak City Resolution Number 84-02 is approved without modification by the Local Boundary Commission.

This annexation is deemed necessary because the recommendation for the creation of a service area for Togiak Bay pursuant to AS 29.03.020, submitted by the Commission to the First Session of the Thirteenth Legislature, was not enacted.

The possibility of Twin Hills' future incorporation was discussed by the Commission. Should such an eventuality occur, appropriate boundary adjustments in Togiak Bay should be made at that time.

The provisions of the Federal Voting Rights Act of 1965, as amended, have been considered. They do not appear to have been violated.

RECOMMENDATION

On this basis, the Local Boundary Commission hereby recommends to the First Session of the Fourteenth Legislature that the territory described below be annexed to the City of Togiak:

Starting at the mean high tideline of the southern most tip of Tongue Point on the west side of Togiak Bay; thence moving in a northeasterly direction along a straight line to the mean high tideline of the southern most tip of Rocky Point on the east side of Togiak Bay; thence meandering in a northerly direction along the mean high tideline of the east side of Togiak Bay to the intersection with the east bank of the mouth of the Togiak River; thence meandering in a northerly direction along the east bank of the Togiak River to the intersection with the northern boundary of the protracted Section 6, T13S, R66W, Seward Meridian (S.M.); thence west along the section line to the intersection with the west bank of the Togiak River; thence meandering in a southerly direction along the west bank of the Togiak River to the

intersection with the mean high tideline of the western side of Togiak Bay; thence meandering in a southerly direction along the mean high tideline of the west side of Togiak Bay to the intersection with the southern most tip of Tongue Point, the true point of beginning, containing approximately 183 square miles.

Alaska Constitution

Article 10

law or charter. A new established if, consistent article, the new service existing service area, by annexation to a city. The levying of taxes, within a service area to

ture shall provide for the it deems necessary or boroughs, allowing for on and responsibility. Its function in an unorganized assembly may exercise in

ll be incorporated in a and shall be a part of are located. Cities shall ons conferred by law or ed, consolidated, classified in the manner pro-

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ified voters of any bority of the first class may home rule charter in a In the absence of such dy of a borough or city le the procedure for the or rejection of the charor amendments of charthe qualified voters of hall become effective if those who vote on the

Extended
Home Rule
Home Rule
Powers

Boundaries

Agreements:
Transfer of
Powers

Local
Government
Agency

Special
Service
Districts

SECTION 10. The legislature may extend home rule to other boroughs and cities.

SECTION 11. A home rule borough or city may exercise all legislative powers not prohibited by law or by charter.

SECTION 12. 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.

SECTION 13. Agreements, including those for cooperative or joint administration of any functions or powers, may be made by any local government with any other local government, with the State, or with the United States, unless otherwise provided by law or charter. A city may transfer to the borough in which it is located any of its powers or functions unless prohibited by law or charter, and may in like manner revoke the transfer.

SECTION 14. An agency shall be established by law in the executive branch of the state government to advise and assist local governments. It shall review their activities; collect and publish local government information, and perform other duties prescribed by law

SECTION 15. Special service districts existing at the time a borough is organized shall be integrated with the government of the borough as provided by law.

(f) A second class borough may establish a service area by ordinance which may include only vacant, unappropriated and unreserved land owned by the municipality. A second class borough may establish a service area, with the concurrence of the commissioner of natural resources, which may include only vacant, unappropriated and unreserved land owned by the state and classified for disposal to individuals. A second class borough may provide those services in a service area established under this subsection necessary to develop state or municipal land as required by the planning and platting ordinances of the borough. Exercise of the powers authorized by this subsection shall be by ordinance. (§ 2 ch 118 SLA 1972; am §§ 9, 10 ch 85 SLA 1979)

NOTES TO DECISIONS

Effect of 1979 amendments. — The 1979 amendments to the service area provisions found in subsections (a) and (f) of this section do not violate constitutional

rights of borough residents. Wolfgang Falke v. Fairbanks North Star Borough, Sup. Ct. Op. No. 2530 (File Nos. 5761, 5781), 648 P.2d 597 (1982).

Collateral references. — Standing of municipal corporation or other govern-

mental body to attack zoning of land lying outside its borders, 49 ALR3d 1126.

Chapter 68. Alteration of Boundaries.

Article

- 1. Annexation and Exclusion (§§ 29.68.010 — 29.68.020)
- 2. Merger and Consolidation (§§ 29.68.030 — 29.68.110)
- 3. Unification of Local Governments (§§ 29.68.240 — 29.68.440)
- 4. Dissolution (§§ 29.68.500 — 29.68.580)

Article 1. Annexation and Exclusion.

Section

- 10. Local boundary commission
- 20. Annexation of military reservations

Sec. 29.68.010. Local boundary commission. (a) The Local Boundary Commission may consider any proposed local government boundary change. It may present proposed changes to the legislature during the first 10 days of any regular session. The change shall become 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.

(b) In addition to the regulations governing annexation by local action adopted under AS 44.47.567, the Local Boundary Commission shall, within 90 days of September 10, 1972, establish procedures for annexation and exclusion of territory by cities and boroughs by local

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action. The procedures established under this subsection shall include

(1) a provision requiring that a proposed annexation and exclusion must be approved by a majority of the voters voting on the question residing within the area proposed to be annexed or excluded;

(2) provisions that municipally-owned property adjoining the municipality may be annexed by ordinance without voter approval; and

(3) provisions that an area adjoining the municipality may be annexed by ordinance without an election if all property owners and voters within the area petition the assembly or council.

(c) A boundary change effected under (a) of this section prevails over a boundary change initiated by local action, without regard to priority in time. (§ 2 ch 118 SLA 1972)

Cross references. — For further provisions relating to local boundary commission procedures, see AS 44.47.565 —

44.47.583. For requirements of a hearing on local boundary changes, see AS 44.47.581.

NOTES TO DECISIONS

Defining boundaries is a legislative function. — The creation of municipalities, and the defining of the extent of the boundaries thereof, involve the exercise of legislative, not judicial, power. *Town of Fairbanks v. Barrack*, 282 F. 417 (9th Cir. 1922), cert. denied, 261 U.S. 615, 43 S. Ct. 361, 67 L. Ed. 828 (1923); *In re Annexation to City of Anchorage*, 16 Alaska 519, 146 F. Supp. 98 (D. Alaska 1956), decided under former, similar law.

The local action provision of Alaska Const., art. X, § 12 has been implemented by this section and by 19 AAC § 15.010 et seq. *Port Valdez Co. v. City of Valdez*, Sup. Ct. Op. No. 1044 (File No. 1996), 522 P.2d 1147 (1974).

Expansion of municipal boundaries is matter of statewide concern. — Those who reside or own property in the area to be annexed have no vested right to insist that annexation take place only with their consent. The subject of expansion of municipal boundaries is legitimately the concern of the state as a whole, and not just that of the local community. *Fairview Pub. Util. Dist. No. 1 v. City of Anchorage*, Sup. Ct. Op. No. 61 (File Nos. 69, 71), 368 P.2d 540, appeal dismissed and cert. denied, 371 U.S. 5, 83 S. Ct. 39, 9 L. Ed. 2d 49 (1962), decided under former, similar law.

Annexation procedure may be changed. — The state may permit residents of local communities to determine annexation questions at an election. But

when this has been done, the state is not irrevocably committed to that arrangement. If the citizens of the state, in adopting a constitution, decide that it is in the public interest to establish another election procedure, there is no constitutional obstacle to that course of action. *Fairview Pub. Util. Dist. No. 1 v. City of Anchorage*, Sup. Ct. Op. No. 61 (File Nos. 69, 71), 368 P.2d 540, appeal dismissed and cert. denied, 371 U.S. 5, 83 S. Ct. 39, 9 L. Ed. 2d 49 (1962), decided under former, similar law.

One proceeding for annexing several tracts. — See *In re Town of Sitka*, 11 Alaska 201 (1946), decided under former, similar law.

Areas in public utility district may be annexed. — The fact that the areas are embraced within a public utility district constitutes no bar to annexation. *In re Annexation to City of Anchorage*, 15 Alaska 504, 129 F. Supp. 551 (D. Alaska 1955). See *Fairview Pub. Util. Dist. No. 1 v. City of Anchorage*, Sup. Ct. Op. No. 61 (File Nos. 69, 71), 368 P.2d 540, appeal dismissed and cert. denied, 371 U.S. 5, 83 S. Ct. 39, 9 L. Ed. 2d 49 (1962), decided under former, similar law.

Consent of voters in district required if annexation proceeds under this article. — The provision of AS 42.35.370 providing for dissolution of a utility district with the consent of the voters when "the whole or the integral part of a district becomes annexed to an incorporated city"

NOTES TO DECISIONS

When constitutional provision effective. — The method for making boundary changes, contemplated by art. X, § 12, of the Alaska Constitution, was operative upon the enactment of AS 44.19.260 [now AS 44.47.567] and this section. Fairview Pub. Util. Dist. No. 1 v. Anchorage, Sup.

Ct. Op. No. 61 (File Nos. 69, 71), 368 P.2d 540, appeal dismissed and cert. denied, 371 U.S. 5, 83 S. Ct. 39, 9 L. Ed. 2d 49 (1962).

Cited in Mobil Oil Corp. v. Local Boundary Comm'n, Sup. Ct. Op. No. 989 (File No. 1947), 518 P.2d 92 (1974).

Sec. 44.47.567. Powers and duties. (a) The local boundary commission shall

- (1) make studies of local government boundary problems;
- (2) develop proposed standards and procedures for changing local boundary lines;
- (3) consider a local government boundary change requested of it by the legislature, the commissioner of community and regional affairs, or a political subdivision of the state; and
- (4) develop standards and procedures for the extension of services and ordinances of incorporated cities into contiguous areas for limited purposes upon majority approval of the voters of the contiguous area to be annexed and prepare transition schedules and prorated tax mill levies as well as standards for participation by voters of these contiguous areas in the affairs of the incorporated cities furnishing services.

(b) The local boundary commission may

- (1) conduct meetings and hearings to consider local government boundary changes and other matters related to local government boundary changes, including extensions of services by incorporated cities into contiguous areas and matters related to extension of services; and

(2) present to the legislature during the first 10 days of a regular session proposed local government boundary changes, including gradual extension of services of incorporated cities into contiguous areas upon a majority approval of the voters of the contiguous area to be annexed and transition schedules providing for total assimilation of the contiguous area and its full participation in the affairs of the incorporated city within a period not to exceed five years. (§ 7 ch 64 SLA 1959; § 2 ch 45 SLA 1960; am §§ 1, 2 ch 55 SLA 1964; am §§ 1, 2 ch 161 SLA 1966; am § 6 ch 200 SLA 1972)

Revisor's notes. — Formerly AS 44.19.260. Renumbered in 1980.

Cross references. — For further statement of powers of local boundary commission, see Alaska Constitution, art. X, § 12.

Opinions of attorney general. — When grouped together, the powers and duties of the local boundary commission

are as follows: (1) To consider any local government boundary change (§ 12, art. X, Alaska Constitution); (2) to present proposed changes to the legislature (§ 12, art. X, Alaska Constitution; § 7, ch. 64, SLA 1959); (3) (subject to law) to establish procedures whereby boundaries may be adjusted by local action (§ 12, art. X, Alaska Constitution); (4) to make studies

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§ 44.47.567

STATE GOVERNMENT

§ 44.47.567

of local government boundary problems (§ 7, ch. 64, SLA 1959); (5) to develop proposed standards and procedures for changing local boundary lines (§ 7, ch. 64, SLA 1959); (6) to hold hearings on proposed boundary changes (§ 7, ch. 64,

SLA 1959). 1959 Op. Att'y Gen., No. 30.
The local boundary commission has the power and authority to recommend borough boundaries to the legislature. 1959 Op. Att'y Gen., No. 30.

NOTES TO DECISIONS

By this section and AS 44.47.583 it is provided that the commission must make studies of local government boundary problems, develop proposed standards and procedures for changing boundaries, and consider boundary changes requested of it by political subdivisions. The commission may conduct hearings on boundary changes and present proposed changes to the legislature. The change becomes effective unless the legislature disapproves; legislative silence permits the change. *United States Smelting, Ref. & Mining Co. v. Local Boundary Comm'n*, Sup. Ct. Op. No. 727 (File No. 1461), 489 P.2d 140 (1971).

When constitutional provision effective. — See same catchline in note to AS 44.47.565.

Alaska Const., art. X, § 12 established two methods by which local boundaries might be changed: (1) by direct action of the local boundary commission subject to legislative disapproval, and (2) by establishment by the commission of procedures for the adjustment of boundaries by local action. *Port Valdez Co. v. City of Valdez*, Sup. Ct. Op. No. 1044 (File No. 1996), 522 P.2d 1147 (1974).

Step annexation allows for gradual assimilation. — As an alternative to immediate annexation, the step-annexation provision allows for gradual assimilation of contiguous areas into incorporated cities where direct annexation would be premature or impractical. *Port Valdez Co. v. City of Valdez*, Sup. Ct. Op. No. 1044 (File No. 1996), 522 P.2d 1147 (1974).

How step annexation commenced. — Ordinarily, a step annexation will be commenced by a municipality's petition specifically requesting that alternative, although presumably the commission could require the municipality to annex by the step method. *Port Valdez Co. v. City of Valdez*, Sup. Ct. Op. No. 1044 (File No. 1996), 522 P.2d 1147 (1974).

Section implements Alaska Const., art. X, § 12. — The legislature implemented Alaska Const., art. X, § 12 by

enacting this section. *Port Valdez Co. v. City of Valdez*, Sup. Ct. Op. No. 1044 (File No. 1996), 522 P.2d 1147 (1974).

The intention of Alaska Const., art. X, § 12 and this section was to provide an objective administrative body to make state-level decisions regarding local boundary changes, thus avoiding the chance that a small, self-interested group could stand in the way of boundary changes which were in the public interest. *Port Valdez Co. v. City of Valdez*, Sup. Ct. Op. No. 1044 (File No. 1996), 522 P.2d 1147 (1974).

The duties imposed upon the commission in subsection (a) are mandatory. *United States Smelting, Ref. & Mining Co. v. Local Boundary Comm'n*, Sup. Ct. Op. No. 727 (File No. 1461), 489 P.2d 140 (1971).

And those in subsection (b) are discretionary. *United States Smelting, Ref. & Mining Co. v. Local Boundary Comm'n*, Sup. Ct. Op. No. 727 (File No. 1461), 489 P.2d 140 (1971).

The development of standards is a precondition to the commission's exercise of its discretion under subsection (b) of this section. *United States Smelting, Ref. & Mining Co. v. Local Boundary Comm'n*, Sup. Ct. Op. No. 727 (File No. 1461), 489 P.2d 140 (1971).

The exercise of the commission's discretion under subsection (b) of this section is conditioned upon the development of standards and procedures for changing local boundary lines under subsection (a)(2) of this section. *United States Smelting, Ref. & Mining Co. v. Local Boundary Comm'n*, Sup. Ct. Op. No. 727 (File No. 1461), 489 P.2d 140 (1971).

Under subsection (a) of this section the legislature requires the commission to develop standards in order to recommend boundary changes. *United States Smelting, Ref. & Mining Co. v. Local Boundary Comm'n*, Sup. Ct. Op. No. 727 (File No. 1461), 489 P.2d 140 (1971).

Since mandatory terms were used, the legislature clearly intended the local boundary commission to adopt regulations

STATE OF ALASKA THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

February 28, 1985

SUBJECT: Annexation of Territory to Togiak

TO: Senator Edna DeVries
Chair, Community and Regional Affairs

FROM: Tamara Brandt Cook ^{TBC}
Deputy Director
Division of Legal Services

You have asked several questions concerning the proposed annexation of territory to Togiak. First, you want to know where the state boundary is in the area proposed for annexation. I do not have the expertise needed to make such a determination. That is very technical matter, and, I understand, there are several places where the boundary is in dispute. A map of the area to be annexed should probably be submitted to the appropriate federal agency with a request for a determination of whether it includes territory outside the state jurisdictional boundary.

In general, the state's jurisdictional boundary extends three miles past its coastline as provided under the Submerged Lands Act (See 43 U.S.C. 1312; Pollards Lessee v. Hagan, 44 U.S. 212, 223 (1845); U.S. v. California, 332 U.S. 19 (1947)). However, many factors influence the boundary determination at a particular point. It is my understanding that where there are islands within the three-mile limit, the state's boundary may include waters three miles past the islands and this can result in a jurisdiction that exceeds three miles from the state's coastline. Inland waters are also included within the jurisdiction of a state, but there is considerable confusion over how it is determined whether a body of water qualifies as "inland". Bays less than 25 miles wide seem generally to be classed as inland waters. The state also has jurisdiction over "historic bays" -- those over which the state has exercised continuous authority in the past and the authority has been accepted by other jurisdictions. (See U.S. v. Alaska, 422 U.S. (1975) holding that the lower Cook Inlet is not a "historic bay".)

Senator DeVries
Page 2
February 28, 1985

You have also asked what jurisdiction has authority over the waters beyond the state's boundaries. It should be noted that not even the federal government claims outright ownership of the waters past the three-mile limit, although it exerts control over waters at the 200-mile limit as an economic zone. The federal government, however, does have the paramount rights in the area beyond the three-mile limit. Nevertheless, the principle of federal exclusivity does not preclude the state from regulating in situations that do not conflict with federal regulation. For example, the state may regulate certain aspects of extraterritorial fishing. (State v. Sieminski, 556 P.2d 929 (Alaska 1976); State v. Bundrant, 546 P.2d 530, rehearing denied, 547 P.2d 838 (Alaska 1976); hearing denied, 50 Led.2d 66) So, it cannot be said that the state has no jurisdiction over waters outside its boundaries, only that federal jurisdiction is supreme.

Lastly, you have asked whether an annexation that includes part of an improvement presents any legal problems. Although it might create some minor tax assessment difficulties, as a legal matter I can think of nothing that precludes the annexation of a portion of improved property.

Regardless of whether the proposed annexation of territory to Togiak becomes is approved, the boundaries of a city may not include territory that is not within the boundaries of the state. If the legislature does not disapprove the annexation by resolution, it will be valid as to territory described in the annexation that is within the state's boundaries.

TBC:ojb
J12/034



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
Office of General Counsel
P.O. Box 1668
Juneau, Alaska 99802
Telephone (907) 586-7414

February 26, 1985

Honorable Edna DeVries
Alaska State Senate
Attention: Ms. Trudie Alford
Pouch V
Juneau, Alaska 99811

Dear Senator DeVries:

Thank you for requesting, through Ms. Alford of your staff, my comments on the proposed annexation by the City of Togiak of Togiak Bay. I represent the National Oceanic and Atmospheric Administration (NOAA) of the United States Department of Commerce. NOAA includes such agencies as the National Marine Fisheries Service and the National Ocean Service which have significant interest in governmental jurisdiction over marine areas.

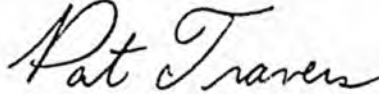
As Ms. Susan Cox of the Department of Law advised you in her letter of February 25, 1985, there is a difference of opinion between the State of Alaska and the United States as to the location of the seaward boundary of the State, that is, the three-mile limit. As Ms. Cox suggests, the State would probably take the position that all of Togiak Bay is within the State's seaward boundary, and that there is thus no impediment to the City's annexation of the Bay due to lack of jurisdiction. The Federal Government, on the other hand, has clearly taken the position that a large portion of the Bay is beyond the three-mile limit, and is thus outside the boundaries of the State. This position was developed by the Federal Inter-agency Baseline Committee, under the auspices of the U.S. Department of State, and is reflected in NOAA Nautical Chart No. 8802, which you and Ms. Cox have examined. Under this Federal view of the situation, the City would probably not be able to annex all of the proposed area, but only that portion of it that lies within the three-mile limit as illustrated on Chart No. 8802.

As Ms. Cox has noted, this difference of opinion between the State and Federal governments is now the subject of litigation before the United States Supreme Court. Perhaps one way in which the Legislature could take positive action on the proposed annexation while not raising this issue would be to approve the annexation of the proposed area of the Bay to the extent this area lies within the boundaries of the State. In that way, the extent of the annexation could be settled whenever the more general disagreement over the extent of the State's seaward boundaries is resolved, without the need for additional action by the Legislature or the Local Boundary Commission.



I appreciate very much the opportunity to participate in your deliberations on this matter, and hope that you will let me know if I can be of any further help as you formulate the Legislature's decision.

Respectfully yours,

A handwritten signature in cursive script that reads "Pat Travers". The letters are fluid and connected, with a prominent initial "P".

Patrick J. Travers
Alaska Regional Counsel

US Department
of Transportation

United States
Coast Guard



Commander
Seventeenth Coast Guard District

P.O. Box 3-5000
Juneau, AK 99802
Staff Symbol: (d1)
Phone: (907)
586-7397

5800

FEB 28 1985

Senator Edna DeVries
Alaska State Senate
Committee on Community and Regional Affairs
Pouch V
Juneau, Alaska 99811
Attn: Ms. Trudie Alford

Re: Togiak Bay Annexation

Dear Senator DeVries:

I am writing at your request concerning the Coast Guard's view of the Togiak Bay annexation.

Although I am not familiar with the case referred to by the Attorney General, I am familiar with the methods of drawing baselines as they are presently drawn under international law.

There are a few preliminary points that I would like to set out.

1. The placement of baselines, from which the outer limits of the territorial sea are measured, is a matter of international law and is presently governed by Articles 3 through 11 of the 1958 Convention on the Territorial Sea and the Contiguous Zone. 1505T, 1606, TIAS 5639, 516 UNTS 205.
2. Under international law, the federal position on the location of the baseline is, by virtue of the supremacy clause of the U. S. Constitution, superior to any state or local claim. The federal position is the only position recognized as legitimate by the international community and agencies of the federal government including the Coast Guard.
3. The U. S. government has established and published the lines delineating the territorial sea and contiguous zone on the chart entitled "Alaska Peninsula and Aleutian Islands to Seguam Pass," NOAA Chart 16011, 30th Ed., April 1983, which I understand was presented to the Committee on 21 February 1985. The lines shown on that chart represent a federal interdepartmental committee's interpretation of the applicable legal principles as applied to that geographical area. The lines represent the official U. S. government position on the limits of the territorial sea.

FEB 28 1985

4. The lines published on chart 16011 are in conformity with the 1958 Convention and are the boundaries presently recognized by the international community.
5. The 1958 Convention of the High Seas defines as high seas any area beyond the territorial sea. 13 OST 2312, TIAS 5200, 450 UNTS 82.

By drawing the area proposed to be annexed on Chart 16011, it can be seen that the area extends beyond the internationally recognized limit of the territorial sea. Togiak is in effect proposing to annex a portion of what is presently recognized as high seas. Such an attempt to exercise sovereignty over the high seas would be inconsistent with international and federal law.

I would therefore urge the Committee to disapprove the action of the Local Boundary Commission at least to the extent that the proposed annexation extends beyond the limits of the territorial sea as shown on Chart 16011.



R. S. LUCAS
REAR ADMIRAL U.S. COAST GUARD
COMMANDER, SEVENTEENTH COAST GUARD DISTRICT



Official Business

Alaska State Legislature

Senate

Committee on Community and Regional Affairs

Senator Edna DeVries, Chairman

Members:

Senator Ferguson, Vice Chairman

Senator Coghill

Senator Sturgulewski

Senator V. Fischer

Pouch V

Juneau, Alaska 99811

MEMORANDUM

February 26, 1985

TO: Senator DeVries

FROM: Trudie Alford *TA*

SUBJECT: TOGIK BAY ANNEXATION (Alaska Local Boundary Commission Report)

Received phone calls this date from the U.S. Coast Guard Office and the National Marine Fisheries Service Office in Juneau. Both government agencies indicated a desire to review the territorial boundary matter in connection with the annexation of Togiak Bay.

I explained to them that the Legislature had to either allow the Local Boundary Commission decision to stand or disapprove same by a concurrent resolution on or before March 8, 1985. Representatives from both offices stated they wanted to submit written and or oral testimony on the annexation.

Per your instructions, I informed them that any input they want to make should be received not later than 3:30 p.m., Thursday, February 28, 1985.



SENATOR FRED F. ZHAROFF

ALASKA STATE LEGISLATURE

P. O. BOX 405, KODIAK, ALASKA 99615 (907) 486-5259

DURING SESSION:

POUCH V, JUNEAU, ALASKA 99811 • (907) 465-3473 • 465-3474 • 465-3844 (Labor and Commerce Committee)

DISTRICT N

ALASKA PENINSULA • ALEUTIAN CHAIN • BRISTOL BAY • KODIAK ISLAND • LAKE CLARK/LAKE ILIAMNA • PRIBILOF ISLANDS • SHUMAGIN ISLANDS

M E M O R A N D U M

TO: Senate C&RA Committee Members
Senator DeVries, Chair
Senator Ferguson, Vice-chair
Senator Coghill
Senator Sturgulewski
Senator Vic Fischer

FROM: Senator Fred F. Zharrowff 

DATE: February 25, 1985

SUBJ: Togiak Annexation

On Tuesday, February 26, the Senate Community & Regional Affairs Committee will be considering SJR 18. This resolution disapproves the Local Boundary Commission's recommendation for the City of Togiak's annexation of Togiak Bay. I urge you to not support this resolution.

As you know, the Local Boundary Commission has considered the Togiak annexation proposal and recommends approval. Further, while the DC&RA staff initially had some concerns about the annexation, Commissioner Notti, in his letter of February 15, 1985 to Senator DeVries, clearly states the Department's support for the Local Boundary Commission's action to approve the annexation of Togiak Bay.

The people of Togiak have shown overwhelming support for the annexation in public hearings conducted by the Local Boundary Commission. Although objections have been expressed by some individuals from Twin Hills, the Local Boundary Commission has addressed this issue in its report. Twin Hills is an unincorporated community. When and if Twin Hills decides to incorporate, the question of boundary adjustments should be taken up at that time. Therefore, I can see no reason why the annexation should not be approved.

Please keep these points in mind when you are considering SJR 18. Thank you.

*2/25/85 Distributed
by Sen. Zharrowff to
Senate C&RA members.
fza*



Official Business

Alaska State Legislature

Senate

Committee on Community and Regional Affairs

Senator Edna DeVries, Chairman
Members
Senator Ferguson, Vice Chairman
Senator Coghill
Senator Sturgulewski
Senator V. Fischer

Pouch V
Juneau, Alaska 99811

February 19, 1985

C&RA Meeting -- 3:30p

This meeting has been continued from the Feb 5 meeting wherein the Local Boundary Commission presented its report to the Legislature. The two items for consideration are the Commission approved annexation of 117 acres to the City of Fairbanks and 183 square miles to the City of Togiak. Teleconference hook-up has been setup with Fairbanks and Togiak.

Togiak has requested to testify from 3:30 to 4:00p

The Mayor of Togiak, Emma Ayojiak-Carlos

will testify-- I do not know how many others

Fairbanks testimony will be from 4:00 until 4:30p

Dennis Wise and/or his attorney, Mr. Hackett

will testify and the City of Fairbanks will be

represented by City Attorney Herb Kuss

Information received since the February 5 meeting on the Fairbanks annexation: Superior Court Judge James Blair has issued an order staying the Local Boundary Commission decision pending appeal filed by Wise Enterprises.

The committee requested the Dept of Community and Regional Affairs to clarify their position on the annexation of the area requested by Togiak, since their present position paper recommends against annexation. I called and requested this written clarification last week and was told that it would be provided prior to today's meeting.

The meeting at 6:30p today was suggested by the Committee in order to have a work session with the Local Boundary Commission on incorporation within the unorganized borough. I have attached two documents that are general in nature but do speak to this issue. I suggest that you open the discussion by requesting Arliss to give an overview of some of the work she did on this issue while she was chair of Senate Community and Regional Affairs.....

I suggest that you ask the Ccmmission to provide the Committee with information on how many requests for incorporation have been received over the past 5 years, and how many of those requests have been approved and how many have been denied.

The Commission might be asked to give its opinion as to incorporation within the unorganized borough.



Official Business

Alaska State Legislature

Senate

Committee on Community and Regional Affairs

Senator Edna DeVries, Chairman
Members:
Senator Ferguson, Vice Chairman
Senator Coghill
Senator Sturgulewski
Senator V. Fischer

Pouch V
Juneau, Alaska 99811

C&RA Joint House/Senate Meeting 2/19/85

3:30p -- Butrovich Room

Continue hearing on two proposed annexations before the
Local Boundary Commission

— Fairbanks has petitioned to annex 117 acres to the
City...

The annexation is contested by Dennis Wise of
Wise Enterprises -- there will be teleconference hookup to
Fairbanks - Superior Court Judge Blair has issued a stay order
to the Commission decision on the Fairbanks annexation

— the City of Togiak has petitioned the Commission to annex
183 square miles --- The Dept of C&RA originally
recommended denying the Togiak annexation; however
by memorandum dated Feb 15th C&RA supports this annexation.

The City of Togiak will be on line with teleconference
hook-up to the Committee

6:30p -- Butrovich Room

Work Session with joint committee to discuss with the Local
Boundary Commission the issue of incorporation within the
the unorganized borough

Attached are three separate issue papers on this subject that
you may find instructive

**attached*

STATE OF ALASKA

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

BILL SHEFFIELD, GOVERNOR

POUCH B
JUNEAU, ALASKA 99811
PHONE: (907) 465-4700

949 E. 36TH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99508
PHONE: (907) 563-1073

February 15, 1985

The Honorable Edna DeVries
Chairman
Senate Committee on
Community and Regional Affairs
Pouch V
Juneau, Alaska 99811

Dear Senator DeVries:

During the February 5 meeting with the Local Boundary Commission, members of the House and Senate Community and Regional Affairs Committees expressed interest in determining whether this agency supported the Local Boundary Commission's action to approve the annexation of Togiak Bay to the City of Togiak. The answer is yes.

As you are aware, the Department prepared a report and recommendation to the Commission on this matter dated November 15, 1984. Our recommendation contained in that report was for a different action than that taken by the Commission. However, it is important to realize such reports are prepared prior to the Commission having conducted public hearings on these matters. Such public hearings are essential to the complete and careful consideration of matters brought before the Commission. Our report and recommendation is only one element of several which the Commission considers in evaluating boundary change proposals.

The extent of the problem relating to the use of alcohol in and around Togiak became much more evident at the Commission's hearing than was expressed in our report. Too, the desire and will of the citizens of the community to respond to the alcohol problem was readily demonstrated at the hearing. For these reasons, the Department believes that the annexation of Togiak Bay is in the best interests of the State and the communities of Togiak and Twin Hills.


The Honorable Edna DeVries
Chairman
Senate Committee on Community and Regional Affairs
February 15, 1985
Page 2

Finally, I wish to point out that the analysis in the Department's report of additional raw fish tax revenues which the City might receive as a result of the annexation, was incomplete and may have been overestimated. It is very difficult to obtain accurate data in this regard. However, we believe additional revenues received by the City in this regard will be key to its ability to address the alcohol related problems in the territory proposed for annexation.

In conclusion, we urge you to support the recommendation of the Local Boundary Commission for the annexation of Togiak Bay to the City of Togiak. Thank you for the opportunity to clarify our position.

I have also written a letter to Representative Goll, Chairman of the House Community and Regional Affairs Committee, advising him of our position.

Sincerely,



Emil Notti
Commissioner

cc: The Honorable Peter Goll
The Honorable Adelheid Herrmann
Gillian Smythe, Chairman, Local Boundary Commission
Marty Rutherford, Director, MRAD

Togiak

P.O. Box 99
Togiak, Alaska 99678

Second Class City

Phone: (907) 493-5820, or 493-9614

INCORPORATION DATE: June 23, 1969
POPULATION: 554
REGULAR ELECTION: First Tuesday in October
SALES TAX: 2%
CITY COUNCIL MEETS: Bi-Monthly

MAYOR: Emma Ayojiak-Carlos 1985

CITY COUNCIL MEMBERS

Andrew Franklin 1987
William Coupchiak 1986
Anuska Schaeffer 1985
Henry L. Bavilla 1985
Henry Pavian 1985
John Coopchiak 1985

SCHOOL BOARD

Andrew Franklin
Anuska Schaeffer

PLANNING & ZONING COMMISSION

Teddy Coopchiak, CIP
Henry Kohuk
Billy Blue
Henry Pavian
Andrew Franklin

MUNICIPALLY OWNED UTILITIES:

Water, Sewer, Airport, Refuse Collection

ADMINISTRATOR Margie Coopchiak
ADMINISTRATIVE ASSISTANT. Marie Pavian
AIRPORT MANAGER William Coupchiak
ATTORNEY. Frederick Torrisi
CLERK Daniel Nanalook, Jr.
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TREASURER Henry L. Bavilla
VPSO. Stan Active, Jr.
VPSO Ken Nanalook
WATER-SEWER SUPERINTENDENT. Pete Abraham

Fairbanks

410 Cushman Street
Fairbanks, Alaska 99701

Home Rule City

Phone: (907) 452-1881

INCORPORATION DATE: November 10, 1903
POPULATION: 27,103
REGULAR ELECTION: First Tuesday following first Monday in October
SALES TAX: None
CITY COUNCIL MEETS: First Monday following First Thursday

MAYOR: Bill Walley 1986

CITY COUNCIL MEMBERS

Chris Anderson 1985
Valerie Therrien 1985
Paul Whitney 1987
Ted Lehne 1986
John Immel 1987
Janet Halvarson 1986

MUNICIPALLY OWNED UTILITIES:

Water, Sewer, Electricity,
Telephone, Steam

ATTORNEY Herb Kuss
CLERK Carma B. Roberson
ELECTRIC SUPERINTENDENT Keith Sworts
ENGINEER John Phillips
FINANCE DIRECTOR Robert Wolting
FIRE CHIEF Warren Tilman
HEAT/WATER DISTRIBUTION SUPERINTENDENT Charles Meggitt
MANAGER W.C. Droz
PARKS & RECREATION DIRECTOR Terry Leberman
POLICE CHIEF Howard Mahler
PUBLIC UTILITY MANAGER Virgil Gillespie
PUBLIC WORKS DIRECTOR Lane Thompson
PURCHASING OFFICER Paul Raiford
SEWER SUPERINTENDENT John Miko
WATER SUPERINTENDENT Dar Heine

1 IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
2 FOURTH JUDICIAL DISTRICT AT FAIRBANKS

3 DENNIS B. WISE d/b/a/ WISE)
4 ENTERPRISES, INC.,)
5 Appellant,)
6 vs.)
7 STATE OF ALASKA LOCAL BOUNDARY)
8 COMMISSION,)
9 Appellee.)

No. 4FA-85-60 CIV

10 MOTION TO DISMISS APPEAL

11 Comes now appellee State of Alaska Local Boundary Com-
12 mission (the LBC), by and through counsel, Susan D. Cox, Assis-
13 tant Attorney General, and moves this court to dismiss the ap-
14 peal herein. This motion is supported by the attached memoran-
15 dum of law, affidavits, and exhibits.

16 DATED: February 19, 1985

17
18 NORMAN C. GORSUCH
19 ATTORNEY GENERAL

20 By: *Susan D. Cox*
21 Susan D. Cox
22 Assistant Attorney General
23
24

ATTORNEY GENERAL, STATE OF ALASKA
STATE CAPITOL
POUCH K. JUNEAU, ALASKA 99811
PHONE 465-3600

24 Mt Dismiss

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
FOURTH JUDICIAL DISTRICT AT FAIRBANKS

DENNIS B. WISE d/b/a/ WISE)
ENTERPRISES, INC.,)
Appellant,)
vs.)
STATE OF ALASKA LOCAL BOUNDARY)
COMMISSION,)
Appellee.)

No. 4FA-85-60 CIV

MEMORANDUM OF LAW IN SUPPORT OF MOTION TO DISMISS

Two independently valid grounds support the contention of appellee State of Alaska Local Boundary Commission (the LBC) that this administrative appeal must be dismissed. First, the administrative decision being appealed only recommends annexation of 117 acres to the City of Fairbanks; that decision (and annexation) does not become effective until after March 9 and only if the legislature does not concur in a resolution disapproving of the annexation. AS 44.47.583. Second, appellant's points on appeal are premised on wholly irrelevant legal principles found in AS 44.47.567(a)(4) and AS 29.68.010(b)(1).

I. THE LBC'S DECISION PROPOSING ANNEXATION OF 117 ACRES TO FAIRBANKS IS NOT RIPE FOR APPELLATE REVIEW

On August 20, 1984, the City of Fairbanks passed Ordinance No. 4351 petitioning the LBC to approve annexation of approximately 117 acres under AS 29.68.010(a) and AS 44.47.567-(b)(2). See Aff. of Bockhorst, ¶ 2 and Exh. A thereto, originally submitted with the LBC's Opposition to Motion to Waive or Reduce Appeal Bond on January 24, 1985, another copy of which is attached. The LBC scheduled a public hearing for November 30, 1984 in Fairbanks, notice of which was printed in the local paper on three occasions. Aff. of Bockhorst, ¶¶ 7 and 8. Dennis Wise, appellant herein, appeared before the LBC at the hearing to oppose the annexation. Aff. of Bockhorst, ¶ 8. The LBC convened the following day and after consideration of the

Mm Dismiss

ATTORNEY GENERAL, STATE OF ALASKA
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1 record voted to approve the annexation petition without modifi-
2 cation. Aff. of Bockhorst, ¶ 9. A document entitled "Summary
3 of Proposed Action, Findings of Fact, Statement of Decision"
4 (Summary/Finding/Decision) was subsequently prepared and issued
5 on or about January 2, 1985. Exh. A, see also Aff. of Hackett,
6 filed Jan. 21, 1985, ¶ 6, another copy of which is attached.

7 There are two processes by which annexation can be
8 accomplished: (1) the LBC may consider proposed boundary
9 changes, then submit them to the legislature for review under AS
10 29.68.010(a) and AS 44.47.567(b)(2), or (2) residents, property
11 owners, or a municipality may effect boundary changes through
12 the "local action" provisions of AS 29.68.010(b). Alaska Const.
13 art. X, § 12. The latter, local action boundary changes are not
14 subject to legislative review. The former type of boundary
15 changes, once approved by the LBC, are presented to the legisla-
16 ture for review and are not effective until "45 days after pre-
17 sentation or at the end of the session, whichever is earlier,
18 unless disapproved by a resolution concurred in by a majority of
19 the members of each house." AS 44.47.583.

20 The Summary/Findings/Decision of the LBC which is the
21 subject of this appeal, recommending annexation of 117 acres to
22 the City of Fairbanks, is not a final decision at this time be-
23 cause the period for legislative review has not passed. The
24 Statement of Decision section itself states that the LBC "will
25 submit its recommendation to the First Session of the Fourteenth
26 Legislature for the boundary change requested by the City of
27 Fairbanks." Exh. A., p. 3 (emphasis added). Accordingly, the
28 proposal was presented to the legislature on January 23, 1985,
29 within the time frame specified in the state constitution and
30 statute. Aff. of Bockhorst, ¶ 10; see also 1985 H. Jour. at
31 105, 1985 S. Jour. at 103-104, Alaska Local Boundary Commission
32 Report to the First Session of the Fourteenth Alaska State Leg-
33 islature, copies of which are attached as Exhibit B. The pro-
34 posed annexation will not become effective until after March 9,

1 1985, and then only if the legislature has not vetoed it. AS
2 44.47.583. Therefore, appellant's appeal herein is premature,
3 since the administrative decision at issue is not truly a final
4 one.

5 In U.S. Smelting, Refining and Mining Co. v. Local
6 Boundary Comm'n, 489 P.2d 140 (Alaska 1971), the Alaska Supreme
7 Court considered the validity of an annexation to Nome proposed
8 by the LBC to the legislature that became effective after the
9 legislative review period had passed. The grounds for challenge
10 were that the LBC had not yet adopted standards and procedures
11 for changing local boundary lines as required by AS 44.19.260-
12 (a)(2), which is now AS 44.47.567(a)(2). The court considered
13 the proper focus of review to be "whether the 'applicable rules
14 of law and procedure were observed'" by the LBC. U.S. Smelting,
15 489 P.2d at 143.

16 This test delineates the contours of judicial
17 review employed by us in the case at bar in
18 reaching the conclusion that the Local Boundary
19 Commission failed to comply with the mandate of
20 AS 44.19.260(a) that it develop standards for the
21 changing of local boundary lines. Without doubt
22 there are questions of public policy to be deter-
23 mined in annexation proceedings which are beyond
24 the province of the court. Examples are the de-
25 sirability of annexation, as expressed in pub-
26 lished standards. Judicial techniques are not
27 well adapted to resolving these questions. In
28 that sense, these may be described as political
29 questions," beyond the compass of judicial re-
30 view. But other annexation issues, such as
31 whether statutory notice requirements were fol-
32 lowed, are readily decided by traditional judi-
33 cial techniques. Murkowski clearly permits this
34 latter type of review.

Our decision as to the availability of judi-
cial review of the Local Boundary Commission's
action in this case is reflective of our deter-
mination that it is administrative action, rather
than legislative action which we have been called
upon to review. We thus find unpersuasive the
argument that article X, section 12 of the Alaska
Constitution and AS 44.19.340 [now AS 44.47.583]
make the decision as to whether the commission
has complied with the law exclusively legislative.

U.S. Smelting, 489 P.2d at 143 (footnote omitted).

The LBC recognizes that appellant is challenging the
validity of an administrative decision, not the legislative pro-

Mm Dismiss

1 cess, but that does not alter the fact that the administrative
2 proposal is not a final decision ripe for appeal. Under the
3 unusual constitutional and statutory structure which applies to
4 the boundary change at hand, the administrative decision is only
5 tentative. Only after the legislative review period has passed
6 does a proposed annexation have any potential effect. If the
7 Fairbanks annexation becomes effective, there will be an admin-
8 istrative decision to review for compliance with applicable law
9 and procedures. If not, the appeal will be moot. In any case,
10 the appeal is premature now.

11 Dicta in a subsequent Alaska Supreme Court case sup-
12 ports this position: "annexations effected through Local Bound-
13 ary Commission procedures receive a full administrative hearing,
14 followed by legislative review, before they are subjected to
15 judicial scrutiny." Port Valdez Company, Inc., v. City of Val-
16 dez, 522 P.2d 1147, 1155 (Alaska 1974)(emphasis added). It is
17 also noteworthy that the Alaska Supreme Court cases involving
18 LBC boundary changes cited herein were filed after annexation
19 became effective: U.S. Smelting (within two months after its
20 effective date, according to n.33 in Port Valdez case, 522 P.2d
21 at 1156); Port Valdez (one year and nine months after the legis-
22 lative review period), id.).

23 II. THIS APPEAL IS BASED ON WHOLLY INAPPLICABLE STATUTES

24 The Statement of Points on Appeal raises several is-
25 sues under AS 29.68.010(b)(1), (2), and (3). These three para-
26 graphs describe three methods to change local boundaries by
27 "local action." As has already been explained above, local ac-
28 tion is an entirely different process from the legislative re-
29 view procedure. The local action provisions are wholly inappli-
30 cable to the legislative review method of annexation which has
31 been utilized in the present case. Because the points on appeal
32 do not raise any claim under the relevant authority (AS 44.47.-
33 567(b)(2) or AS 29.68.010(a), this appeal must be dismissed.

34 Mm Dismiss

1 The LBC's report to the legislature, attached as Ex-
2 hibit B, explains how annexations and detachments may be effect-
3 ed by LBC action through either of two general procedures: leg-
4 islative review or local action. Paragraph (a) of AS 29.68.010
5 applies to the legislative review process, while paragraph (b),
6 subparagraphs (1) -- (3) describe methods of local action. AS
7 29.68.010(c) makes it clear that these are two alternative meth-
8 ods: "A boundary change effected under (a) of this section pre-
9 vails over a boundary change initiated by local action, without
10 regard to priority in time." The LBC has adopted separate regu-
11 lations for each process: 19 AAC 10.450 -- 19 AAC 10.620 is
12 titled "Procedures for Boundary Changes Requiring Legislative
13 Review" while 19 AAC 10.630 -- 19 AAC 10.730 covers "Procedures
14 for Boundary Changes by Local Action." The Alaska Supreme Court
15 has also recognized that article X, section 12 of our state con-
16 stitution

17 established tow methods by which local boundaries
18 might be changed: (1) by direct action of the
19 Local Boundary Commission subject to legislative
20 disapproval, and (2) by establishment by the com-
mission of procedures for the adjustment of bound-
aries by local action.

21 Port Valdez, 522 P.2d at 1150 (footnote omitted).

22 The legislative review process requires approval of a
23 proposed boundary change by both the LBC and the legislature and
24 is currently being used for proposed annexations to Fairbanks
25 and Togiak. Exh. B., Report p. 3. This process "is often ini-
26 tiated by municipalities in circumstances where there is a com-
27 pelling public need for a boundary change, but where a majority
28 of the residents in the territory involved in the boundary
29 change may not support it." Id. Although the LBC report states
30 that this is not the case in the proposed Fairbanks annexation
31 (id.), it is clear that the legislative reievw process is avail-
32 able in such situations.

33 We have previously recognized that the in-
34 tention o: the constitutional provision and its
implementing statute, AS 44.19.260 [now AS 44.-

Mm Dismiss

1 47.567], was to provide an objective administra-
2 tive body to make state-level decisions regarding
3 local boundary changes, thus avoiding the chance
4 that a small, self-interested group could stand
5 in the way of boundary changes which were in the
6 public interest. In Fairview Public Utility Dis-
7 trict No. 1 v. City of Anchorage, 368 P.2d 540,
8 543 (Alaska 1962), appeal dismissed, 371 U.S. 5,
9 83 S.Ct. 39, 9 L.Ed.2d 49 (1962) we said:

6 An examination of the relevant minutes [of
7 the constitutional convention] shows clearly
8 the concept that was in mind when the local
9 boundary commission section was being con-
10 sidered: that local political decisions do
11 not usually create proper boundaries and
12 that boundaries should be established at the
13 state level.

11 Port Valdez, 522 P.2d 1150 n.7.

12 In contrast, boundary changes proposed by local action
13 do not require legislative review. Under AS 29.68.010(b)(1),
14 annexation may be accomplished by majority vote of the residents
15 in the territory proposed for annexation, and LBC approval. If
16 a municipality owns property adjoining its boundaries, it may
17 annex that property by ordinance without voter approval under AS
18 29.68.010(b)(2). The annexation becomes effective upon filing
19 of the notice of adoption of the ordinance with the Department
20 of Community and Regional Affairs. Finally, an area adjoining a
21 municipality may be annexed if all the property owners and all
22 of the registered voters who reside within the territory pro-
23 posed for annexation petition for the boundary change under AS
24 29.68.010(b)(3). This type of annexation takes effect through
25 adoption of an ordinance by the governing body of the municipal-
26 ity and consent of the LBC.

27 Appellant's points on appeal are premised entirely on
28 the mistaken belief that the local action process was utilized
29 for the proposed Fairbanks annexation. He claims that "[b]e-
30 cause the annexation proceeding was commenced by City of Fair-
31 banks Ordinance No. 4351 and not by a petition of affected prop-
32 erty owners, and because there was no vote conducted on the
33 question of the proposed annexation, the annexation proceedings,
34 and the decision of the LBC, are void." Stmt of Points on

Mm Dismiss

1 Appeal, ¶ 2. He contends that the absence of an election vio-
2 lates AS 29.68.010(b)(1), and argues that "voter approval is
3 required before annexation of adjoining, privately-owned proper-
4 ty can become effective," since (b)(2) allows annexation by
5 ordinance of adjoining municipal property only and (b)(3) only
6 allows annexation by ordinance without voter approval if all
7 property owners and voters within the area petition the municipi-
8 pality. Stmt of Points on Appeal, ¶ 3.

9 If this were a local action-initiated boundary change,
10 appellant would be correct in arguing that an election for
11 annexation of private land would be necessary where all property
12 owners and residents had not petitioned the municipality for
13 annexation. However, the proposed annexation of approximately
14 117 acres to the City of Fairbanks was not initiated by local
15 action. The petition by the City of Fairbanks states on its
16 face that the annexation was being proposed under the legisla-
17 tive review process of 19 AAC 10.450 -- 19 AAC 10.620, AS 29.-
18 68.010(a), and AS 44.47.567(b)(2). Aff. of Bockhorst, ¶ 2, and
19 Exh. A attached thereto, ¶ 1. There is no requirement in stat-
20 ute or regulation to hold an election for the voters of an area
21 proposed for annexation. See Fairview Public Utility Dist. No.
22 1 v. City of Anchorage, 368 P.2d 540, 545-546 (Alaska 1962)(no
23 constitutional right to insist that annexation take place only
24 with consent of residents and property owners).

25 Under 19 AAC 10.460, a request for a local government
26 boundary change under the legislative review process is initi-
27 ated by filing a petition with the LBC. The petition may be
28 initiated by "the governing body of a municipality whose bound-
29 aries are to be changed." 19 AAC 10.470(a). This was the pro-
30 cess followed by the City of Fairbanks and the LBC. While
31 appellant may have the right to challenge whether applicable
32 procedures for this process were followed, he has not raised
33 that issue. Notwithstanding the uncontroverted fact that the
34 proposed annexation at issue is one for legislative review, and

1 not one accomplished by local action, appellant's points on
2 appeal raise questions of compliance with totally irrelevant
3 "local action" law.

4 Besides alleging violation of the inapplicable voter
5 approval requirement for local action boundary changes in AS
6 29.68.010(b)(1), appellant also claims that the "LBC Statement
7 of Decision in effect modified the City of Fairbanks' annexation
8 and approved it as a step annexation." Stmt of Points on Ap-
9 peal, ¶ 7. "Step annexation" refers to a gradual, as opposed to
10 immediate annexation.

11 The local boundary commission shall

12

13 (4) develop standards and procedures for
14 the extension of services and ordinances of in-
15 corporated cities into contiguous areas for lim-
16 ited purposes upon majority approval of the
17 voters of the contiguous area to be annexed and
18 prepare transition schedules and prorated tax
19 mill levies as well as standards for participa-
20 tion by voters of these contiguous areas in the
21 affairs of the incorporated cities furnishing
22 services.

23 Port Valdez, 522 P.2d at 1150 n.4; AS 44.47.567(a)(4). Regula-
24 tions for step annexations are set out in yet another section of
25 LBC regulations: 19 AAC 10.735 -- 19 AAC 10.790.

26 In Port Valdez, 522 P.2d at 1150-1152, the Alaska Su-
27 preme Court faced an argument identical to that of appellant.
28 The court explained that step annexation allows for gradual as-
29 similation of contiguous areas "where direct annexation would be
30 premature or impractical." Id. at 1151. The court noted that
31 "[o]rdinarily, a step annexation will be commenced by a municipi-
32 pality's petition specifically requesting that alternative, al-
33 though presumably the commission could require the municipality
34 to annex by the step method." Id. However, in the Port Valdez
case, the original petition of the City of Valdez requested a
direct annexation, and the certification of boundaries did not
contain a single fact suggesting that a step annexation was con-
templated. Id. The court held that "since the city did not

1 request and the commission did not certify a step annexation,
2 the requirements for step annexation are not applicable." Id.

3 The Port Valdez Company argued that because service
4 areas with different municipal services and tax rates were es-
5 tablished after annexation, the annexation must be considered to
6 have been effected by the step method. The court responded:

7 We find the selection of annexation method made
8 by the commission and approved by the legislature
9 to be controlling. The company's argument
10 amounts to an assertion that the differing munic-
11 ipal services and tax rates demand the choice of
12 the step method. We find no such fetters imposed
13 upon the commission's discretion.

14 Port Valdez, 522 F.2d at 1151 (emphasis added, footnote omitted).

15 Similarly, in the case at hand, the City of Fairbanks
16 petitioned the LBC for approval of a direct annexation under the
17 legislative review process. No mention of step annexation,
18 gradual provision of services to the proposed area, or the step
19 annexation regulations (19 AAC 10.735 -- 19 AAC 10.790) is found
20 in either the city's petition or the LBC's Summary/Findings/De-
21 cision. Given the court's ruling in Port Valdez, appellant's
22 contention that the LBC modified Fairbanks' annexation and ap-
23 proved it as a step annexation is of no effect.

24 Appellant argues alternatively that "the LBC abused
25 its discretion by approving the City of Fairbanks' annexation as
26 a direct, and not a step annexation, under the facts and circum-
27 stances of this case." Stmt of Points on Appeal, ¶ 8. The
28 court in Port Valdez did recognize that the "policy decision as
29 to the mode of annexation is an exercise of lawfully vested ad-
30 ministrative discretion which we will review only to determine
31 if administrative, legislative or constitutional mandates were
32 disobeyed or if the action constituted an abuse of discretion."
33 Port Valdez, 522 P.2d at 1151 (footnote omitted). However, the
34 court went on to determine that there were no facts from which
35 to conclude that the direct annexation approved by the LBC con-
36 stituted an abuse of discretion. Id. There is no "constitu-
37 tional, statutory or administrative provision which requires

1 that an annexation of territory like that absorbed by the City
2 of Valdez be accomplished by the step method." Id. at 1152.
3 The court went on to "hold that the Valdez annexation was under-
4 taken by the direct method rather than the step method. It fol-
5 lows that the company's contentions regarding the necessity of
6 an election, schedule of services and tax mill levies as man-
7 dated by the step annexation provision are without merit." Id.

8 While the LBC acknowledges that there may be cases
9 where the court can review the LBC's choice of direct or step
10 annexation for an abuse of discretion, this is not such a case.
11 As in Port Valdez, the city petitioned for direct, not step an-
12 nexation. The LBC approved the annexation petition without mod-
13 ification. Exh. A, p. 3. There is no legal provision requiring
14 that this annexation be accomplished by the step method. Appel-
15 lant's final point on appeal is frivolous.

16 III. CONCLUSION

17
18 The LBC contends that this appeal must be dismissed
19 because it is premature: there is no final administrative deci-
20 sion in effect. Only after the legislative review period has
21 passed might there be an annexation from which to appeal.

22 Additionally, appellant's pleadings on their face fail
23 to raise relevant legal issues on appeal. As explained above,
24 the Statement of Points on Appeal is premised on alleged viola-
25 tions of entirely inapplicable law. An examination of the City
26 of Fairbanks' annexation petition, the LBC's Summary of Proposed
27 Action, and the LBC's report to the legislature reveals clearly
28 that this is a legislative review type of annexation. Appel-
29 lant's points claiming violation of local action statutes rely
30 on inapposite authority. Furthermore, the points relating to
31 step annexation raise no appellate issues in light of the Port
32 Valdez case, 522 P.2d at 1150-1152. The LBC contends that these
33 nonissues are the true crux of appellant's case and, therefore,
34 the appeal is without merit and should be dismissed.

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1 If the court does not find that the LBC's arguments
2 herein dispose of appellant's entire appeal, the LBC requests
3 that the court strike those points on appeal which do not raise
4 a claim. The LBC contends that points 1-4, relating to local
5 action statute AS 29.68.010(b), must be stricken. The LBC has a
6 complete record of its public hearing in Fairbanks on November
7 30, 1984 and its decisional meeting on December 1, 1984, and
8 would be happy to provide an affidavit to that effect if it can
9 dispose of point 5 and save the appellant the expense of certi-
10 fication of the record. (Gene Kane sent a copy of the tape-
11 recorded proceedings to counsel for appellant on January 2,
12 1985. Aff. of Hackett, Exh. A attached thereto.) Although the
13 LBC concedes that failure to consider the testimony presented
14 might be a valid basis for review under ordinary circumstances,
15 point 6 should not be allowed to salvage this appeal from dis-
16 missal, where appellant has obviously misconstrued what the LBC
17 was to consider in making its decision (e.g., mistake re appli-
18 cation of legislative review vs. local action process). Points
19 7 and 8 are illegitimate claims under Port Valdez and should be
20 stricken.

21 Finally, in the event that the court considers some
22 points sufficient to state an appellate claim, and does not find
23 dismissal warranted, the LBC requests that, at a minimum, con-
24 sideration of this appeal and certification of the record be
25 stayed until after the legislative review period passes on March
26 9, 1985.

27 DATED: February 19, 1985

28
29 NORMAN C. GORSUCH
ATTORNEY GENERAL

30
31 By: *Susan D. Cox*
Susan D. Cox
32 Assistant Attorney General
33
34

Mm Dismiss

- 11 -

STATE OF ALASKA
LOCAL BOUNDARY COMMISSION

SUMMARY OF PROPOSED ACTION
FINDINGS OF FACT
STATEMENT OF DECISION

IN THE MATTER OF THE ANNEXATION)
BY THE CITY OF FAIRBANKS, ALASKA)
OF APPROXIMATELY 117 ACRES)
BOUNDED BY PEGER ROAD, DAVIS ROAD)
AND HILL ROAD.)
_____)

SUMMARY OF PROPOSED ACTION

The City of Fairbanks petitioned for the annexation of approximately 117 acres of land contiguous to the City and bounded by Peger, Davis and Hill Roads. 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).

Approximately 77 of the 117 acres proposed for annexation were subdivided for residential/business purposes. The subdivision, known as the Jones Subdivision, contained a population of 96 individuals, approximately 35 dwellings and a small number of businesses. The balance of the territory, comprised of one 40 acre parcel, was under development. A 142 unit adult apartment complex was under construction on the 40 acre parcel, none of the apartments were yet occupied. An additional 408 apartments were planned for development, which would bring the total apartments within the complex to 550.

Both the City of Fairbanks and the privately-owned College Utilities Corporation had petitioned the Alaska Public Utilities Commission for the authority to provide water and sewer utilities service to the territory proposed for annexation. The decision rendered by the Local Boundary Commission on this annexation should not be construed as being a judgement on the respective abilities of the competing utilities to provide service to the area being annexed to the City of Fairbanks. In fact, the Commission came to no conclusion on this question and based its decision on other considerations.

Mr. Dennis Wise, the developer of the apartment complex, opposed the annexation of his 40 acre parcel principally on the grounds that he would prefer the College Utilities Corporation to provide water and sewer utilities services and because he opposed regulation of the construction of his project by the City Building Department.

The area proposed for annexation is within the Fairbanks North Star Borough, which has expressed no objections to the proposed annexation and has indicated to the City of Fairbanks that it has no assets or liabilities within the area which would be acquired or incurred by the City of Fairbanks should the annexation be effected.

The Local Boundary Commission conducted a hearing on the petition in Fairbanks on November 30, 1984. Members of the Commission present at the hearing were Gillian Smythe, Chairman; Dave Hanson and Bert Greist. Member Charles Bettisworth was excused due to a conflict of interest in that he had an on-going business relationship with Mr. Dennis Wise. Member Joesphine Anderson was unable to attend for personal reasons.

FINDINGS OF FACT

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

1. The area proposed for annexation is within the Fairbanks North Star Borough which expressed no objections to the proposed annexation.
2. The territory proposed for annexation includes two distinct areas: the Jones Subdivision and Mr. Wise's development.
3. Only the Jones Subdivision is presently developed, with a population of 96 residents, according to the Borough.
4. There is no evidence of substantial opposition to the proposed annexation from the residents of Jones Subdivision. No polling of residents' preferences regarding annexation was undertaken by the City. However, testimony by Vicki Hanson (resident of the Jones Subdivision) indicated that she had spoken to nearly every household and had found only 3 individuals opposed to annexation. Notice of the Commission's hearing was extensive, in that it was published three times in the Fairbanks Daily News-Miner. Vicki Hanson testified that she had personally delivered copies of a notice of the meeting to each household in the subdivision.
5. The Jones Subdivision area is in need of the following City services which it does not presently receive: road construction and maintenance and drainage control.
6. The Jones Subdivision is urban in character: it has a population density of 798 residents per square mile, which is greater than the City as a whole. Additionally, it contains significant residential and commercial development and the property is subdivided.
7. The 40 acre parcel of land owned by Mr. Wise is also urban in character. The property is being developed for residential purposes and the anticipated population density of this parcel of land will be much greater than that of the City as a whole.
8. The current and anticipated future development of the 40 acre parcel of land owned by Mr. Wise will result in an increased demand for certain municipal services which can be most efficiently provided by the City of Fairbanks. The anticipated demand for municipal services is relevant with respect to road maintenance and drainage.
9. The annexation of Mr. Wise's development would enable the City of Fairbanks to exercise a desirable degree of control over development of that property. In particular, the Commission finds that the health and safety of the future occupants of the development would be better ensured if the development were subject to the City's building codes.
10. The question of the health, welfare and safety of City residents being affected by conditions existing or developing within the property owned by Mr. Wise was raised, particularly with respect to the apparent significant increase in vehicular traffic which will result from the development regardless of whether future residents of the Wise property exit on 19th or Davis Road. The Commission made no determination as to what extent such traffic might endanger the health, safety or welfare of City residents. However, the Commission noted that some impacts on streets, traffic patterns and drainage patterns were likely to affect adjacent areas both within and outside the City of Fairbanks' municipal boundaries.

11. The City of Fairbanks has made a good faith attempt to ensure that the voting rights of people in the territory proposed for annexation will not be adversely affected by the annexation. The City's actions in this regard include evaluating the ethnic population composition of the area proposed to be annexed in relation to overall City and Borough patterns; and contacting representatives of various minority groups. No adverse comments were offered regarding the possible infringement on voting rights at the Commission's hearing.

STATEMENT OF DECISION

Based on the aforementioned facts, all of the members of the Commission who were present at the hearing and subsequent decisional session have determined that both the Jones Subdivision and the Wise property meet many of the standards for the annexation of contiguous territory to a city. Therefore, the September 12, 1984 petition of the City of Fairbanks for the annexation of territory as described in Fairbanks City Ordinance Number 4351 is approved without modification by the Local Boundary Commission.

Consequently, the Commission will submit its recommendation to the First Session of the Fourteenth Legislature for the boundary change requested by the City of Fairbanks. The recommendation will be submitted during the first ten days of the Session, and will take effect 45 days from the date submitted unless both the House and Senate adopt resolutions rejecting the recommendation.

Staff is hereby asked to:

1. Provide a copy of this document to the City of Fairbanks, the Fairbanks North Star Borough, Mr. Dennis Wise, the Fairbanks North Star Borough University Fire Department at Fairbanks and the College Utilities Corporation.
2. Provide a copy of this document to the Alaska Public Utilities Commission, along with an explanation that this decision is not to be construed as a judgment on the respective merits of utilities companies competing for the right to provide utility service to the territory proposed for annexation. A determination as to whether the City of Fairbanks or the College Utilities Corporation should be granted the authority to provide utility services to the area proposed for annexation will be made by the Alaska Public Utilities Commission.
3. Assist the City of Fairbanks in submitting necessary documents and information to the U.S. Justice Department to demonstrate that the proposed annexation will not violate the terms of the Voting Rights Act of 1965, as amended.
4. Prepare and process this decision.

APPROVED DECEMBER 1, 1984.

BY:

Gillian Smythe
Gillian Smythe, Chairman

Dave Hanson
Dave Hanson, Member

Bert Greist
Bert Greist, Member

SENATE JOURNAL

ALASKA STATE LEGISLATURE

FOURTEENTH LEGISLATURE - FIRST SESSION

JUNEAU, ALASKA

WEDNESDAY

January 23, 1985

Tenth Day

Pursuant to adjournment, the Senate was called to order by President Bennett at 11:08 a.m.

The roll showed nineteen members present. Senator Ferguson was excused from a call of the Senate.

The prayer was offered by the Chaplain, Reverend Reimer of the Auke Bay Bible Church. Senator Halford moved and asked unanimous consent that the prayer be spread. Without objection, it was so ordered.

"Our God and Heavenly Father, we thank You that You have not rewarded us according to our sins but have extended mercy and forgiveness to us through Jesus Christ our Lord. Grant us thankful and responsive hearts for this kindness.

We thank You for the privilege of living in a country where freedom prevails, where generally there is sufficient for basic needs. Open our hearts to those who do not enjoy such blessings.

We recognize that all too often we allow life to become extremely complicated because our selfish pursuits get in the way. Teach us to live for others. Help us to see other people as fellow travellers rather than competitors or fields of exploitation. As we meet them show us how we can leave them better than we found them. Give us insight into the circumstances and problems of this day, to analyze them properly and then to draw upon Your wisdom and power to change those situations from stumbling blocks to building materials.

Amen"

Senator Halford moved and asked unanimous consent that the journal for the ninth legislative day and Supplement No. 6 be approved as certified. Without objection, it was so ordered.

MESSAGES FROM THE HOUSE

Message of January 23 was read, stating the House passed:

FIRST READING AND REFERENCE OF HOUSE BILLS

HB 70

HOUSE BILL NO. 70 by the Rules Committee by request of the Governor, entitled:

"An Act relating to donation of leave by state employees; and providing for an effective date."

was read the first time and referred to the Finance Committee.

COMMUNICATIONS

Dated and received 8:33 a.m., January 23:

"Dear Senator Bennett:

Attached is the report to the First Session of the Fourteenth Legislature on the activities of the Alaska Local Boundary Commission during 1984. The report contains recommendations for the annexation of territory to the Cities of Fairbanks and Togiak.

Pursuant to Article X, Section 12 of the Alaska Constitution and Section 29.68.010(a) of the Alaska Statutes, 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. The members of the Local Boundary Commission anticipate meeting with the members of the Community and Regional Affairs Committees of the House and Senate to discuss this report during the first week in February.

A copy of the attached report has also been provided to the Speaker of the House.

Sincerely,
/s/
Gillian Smythe
Chair"

The above report is on file in the Office of the Secretary of the Senate and appears in Senate and House Joint Supplement No. 3.

President Bennett referred the above report to the Community and Regional Affairs Committee.

A letter dated January 23, 1985, was received from Gillian Smythe, Chair of the Local Boundary Commission, transmitting the following report in accordance with Article X, Section 12 of the Alaska Constitution and AS 29.63.010(a):

Report to the First Session of the
Fourteenth Legislature on the Calendar
Year 1984 Activities and Recommendations
for Changes to the Boundaries of the
Following Municipalities: City of Fairbanks
and City of Togiak.

The report appears in Joint Senate and House Journal Supplement No. 3.

REPORTS OF STANDING COMMITTEES

HB 14

The State Affairs Committee has considered HOUSE BILL NO. 14 (making members of the Alaska Territorial Guard eligible for a death gratuity) and reports it back as follows: Hurley (Chairman), Navarre, M.M. Miller, Jenkins, Cato, Collins and Boucher recommend do pass. A fiscal note was attached.

HB 14 was referred to the Finance Committee.

The fiscal note appears in House Journal Supplement No. 7.

HB 70

The State Affairs Committee has considered HOUSE BILL NO. 70 (relating to donation of leave by state employees; effective date) and reports it back as follows: Hurley (Chairman), Navarre, M.M. Miller, Cato, Collins, Boucher and Jenkins recommend do pass.

HB 70 appears on today's calendar.

HJR 3

The State Affairs Committee has considered HOUSE JOINT RESOLUTION NO. 3 (relating to the ratification of an amendment to the Constitution of the United States defining voting rights for residents of the District of Columbia and reports it back as follows: Hurley (Chairman), Navarre, M.M. Miller, Cato, Collins and Boucher recommend do pass; Jenkins has no recommendation.

HJR 3 was referred to the Judiciary Committee.

ALASKA LOCAL BOUNDARY COMMISSION

REPORT TO THE FIRST SESSION OF THE
FOURTEENTH LEGISLATURE ON CALENDAR YEAR
1984 ACTIVITIES AND RECOMMENDATIONS FOR
CHANGES TO THE BOUNDARIES OF THE FOLLOWING
MUNICIPALITIES:

1. CITY OF FAIRBANKS (ELECTION DISTRICT 20)
2. CITY OF TOGIAK (ELECTION DISTRICT 26)

JANUARY 23, 1985

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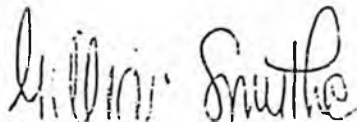
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PREFACE

This document provides a report of the activities of the Alaska Local Boundary Commission during 1984 and contains recommendations to the First Session of the Fourteenth Legislature for changes to the boundaries of the Cities of Fairbanks (Election District 20) and Togiak (Election District 26).

Pursuant to Article X, Section 12 of the Alaska Constitution and Section 29.68.010 of the Alaska Statutes, the boundary changes recommended in this report become effective forty-five days after they are presented to the Legislature (March 10, 1985) or at the end of the Session, whichever is earlier, unless they are expressly disapproved by a concurrent resolution of the Legislature.

The members of the Local Boundary Commission look forward to the opportunity to meet with the Community and Regional Affairs Committees of the House and Senate to discuss the recommendations contained in this report.



Gillian Smythel
Chairman
Alaska Local Boundary Commission

January 23, 1985
date

INTRODUCTION

The Local Boundary Commission was established pursuant to Article X, Section 12 of the Alaska Constitution and Section 44.47.565 of the Alaska Statutes. It is the primary role of the Commission to review and act upon proposals for the formation of municipal governments, changes to the jurisdictional boundaries of municipal governments and the dissolution of municipal governments.

The Local Boundary Commission consists of five members, one from each of the four Judicial Districts of the State, plus one member who serves at-large. The Commission members are appointed by the Governor and serve without compensation at the pleasure of the Governor.

The current members of the Commission are:

Gillian Smythe, Chairman, serving at-large, current term expires January 31, 1987;
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;
David G. Hanson, serving from the Third Judicial District, current term expires January 31, 1988;
Charles Bettisworth, serving from the Fourth Judicial District, current term expires January 31, 1990.

Technical and administrative support to the Local Boundary Commission is provided by the Department of Community and Regional Affairs, Division of Municipal and Regional Assistance.

The following provides a brief description of the procedures and different types of actions through which the Commission fulfills its responsibilities.

FORMATION OF MUNICIPAL GOVERNMENTS: City and borough governments are incorporated under the provisions of State laws and administrative regulations. The Local Boundary Commission reviews and acts on all petitions for municipal incorporations in accordance with AS 29.18.011-150, 19 AAC 10.010-030, 19 AAC 10.160-180 and 19 AAC 10.325-440. If the Commission approves a petition for the incorporation of a municipal government, it must also be approved by the voters of the territory proposed for incorporation before the incorporation is effected.

MUNICIPAL BOUNDARY CHANGES: Annexations and detachments may be effected by Local Boundary Commission action through either of the two following general procedures:

- A. Legislative Review - Section 29.68.010(a) of the Alaska Statutes and Sections 19 AAC 10.065-090 and 19 AAC 10.450-620 govern boundary changes related to the legislative review process. This process requires approval of a proposed boundary change by both the Local Boundary Commission and the State Legislature. This process is being used for the two proposed boundary changes recommended for approval by this Session of the Legislature, i.e. for the Cities of Fairbanks and Togiak.

The legislative review process is often initiated by municipalities in circumstances where there is a compelling public need for a boundary change, but where a majority of the residents in the territory involved in the proposed boundary change may not support it. However, such is not the case in the territory proposed for annexation by either the City of Fairbanks or the City of Togiak.

The Commission always conducts a public hearing in the municipality proposing the boundary change under this process. If, following the hearing, the Commission determines that the proposed boundary change meets the standards established by laws and regulations, the Commission presents its recommendation for the boundary change to the Legislature during the first 10 days of any regular session. The recommended change becomes effective 45 days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution receiving concurrent approval from a majority of the members of each house.

- B. Local Action - Section 29.68.010(b) of the Alaska Statutes and Sections 19 AAC 10.065-090 and 19 AAC 10.630-730 govern boundary changes related to the local action process. Municipal boundary changes proposed under this process do not require a review by the Legislature. The following discussion examines the three different types of boundary changes which may be effected under the local action process:

1. Under the provisions of Section 29.68.010(b)(1) of the Alaska Statutes, territory may be annexed or detached through election by the residents of the territory. To become effective the proposed boundary change must be approved by the Local Boundary Commission and by a majority of voters in the territory proposed for annexation or detachment.

2. Under the provisions of Section 29.68.010(b)(2) of the Alaska Statutes, 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 filing of the notice of the adoption of the ordinance with the Department of Community and Regional Affairs.
3. Under the provisions of Section 29.68.010(b)(3) of the Alaska Statutes, an area adjoining a municipality may be annexed or detached if all of the property owners and all of the registered voters who reside within the territory petition for the boundary change. The annexation or detachment becomes effective through the adoption of an ordinance by the governing body of the municipality and the consent of the Local Boundary Commission.

DISSOLUTION OF MUNICIPAL GOVERNMENTS: The dissolution of a municipal government may be carried out in accordance with Sections 29.68.500-580 of the Alaska Statutes and Sections 19 AAC 10.130-150 and 19 AAC 10.260-280 of the Alaska Administrative Code.

Proposed dissolutions must be approved by the Local Boundary Commission. If a proposed dissolution 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.

SUMMARY OF ACTIVITIES OF THE
LOCAL BOUNDARY COMMISSION DURING 1984

Listed below are the petitions concerning proposed municipal incorporations, boundary changes and dissolutions which were brought before the Commission in 1984. While the majority of the petitions have been acted upon, several are currently pending before the Commission, as noted below.

MUNICIPAL INCORPORATIONS:

NIKISKI (ELECTION DISTRICT 7) - The Commission approved the petition for the incorporation of Nikiski as a city of the first class. The territory proposed for incorporation encompassed approximately 30 square miles. An election on the question of incorporation was subsequently held, with the residents of the territory rejecting the proposal to incorporate by a margin of 570 to 29.

NABESNA (ELECTION DISTRICT 17) - The Commission is scheduled to conduct a hearing on January 26, 1985 to consider the incorporation of Nabesna as a city of the second class. The territory proposed for incorporation has a population of approximately 36 and encompasses approximately 258.7 square miles. The Commission has three alternatives in acting upon the petition; it may deny the petition, it may approve the petition as presented, or it may modify the boundaries of the territory proposed for incorporation and approve the petition.

BETTLES FIELD (ELECTION DISTRICT 24) - The Commission approved the petition for the incorporation of Bettles Field as a city of the second class. The territory proposed for incorporation was reduced by the Commission from approximately 36 square miles to approximately 1.59 square miles. An election on this matter to determine whether the community residents will approve the proposal to incorporate is anticipated to be conducted by the Lieutenant Governor's Office in April of 1985. If incorporated, the name of the government would be the City of Bettles.

MUNICIPAL BOUNDARY CHANGES - LEGISLATIVE REVIEW:

CITY OF FAIRBANKS (ELECTION DISTRICT 20) - The Commission approved the petition for the annexation of approximately 117 acres bounded by Peger Road, Davis Road and Hill Road. Details concerning this proposed annexation are contained in the recommendation for the annexation of this territory found on page 7 of this report.

CITY OF TOGIK (ELECTION DISTRICT 26) - The Commission approved the petition for the annexation of Togiak Bay encompassing approximately 183 square miles. Details concerning this proposed annexation are contained in the recommendation for the annexation of this territory found on page 11 of this report.

CITY OF UNALASKA (ELECTION DISTRICT 26) - The City of Unalaska petitioned for the annexation of an approximately 1,251 square mile area. However, the City has asked that its petition be withdrawn from possible consideration by the First Session of the Fourteenth Legislature.

MUNICIPAL BOUNDARY CHANGES LOCAL ACTION:

CITY OF KLAOCK (ELECTION DISTRICT 2) - Approximately 6.52 acres were annexed.

CITY OF HOONAH (ELECTION DISTRICT 2) - Approximately 1,130 acres were annexed.

CITY OF SOLDOTNA (ELECTION DISTRICT 5) - Approximately 40.79 acres were annexed.

CITY OF HOMER (ELECTION DISTRICT 5) - Approximately 10.67 square miles were annexed.

CITY OF PALMER (ELECTION DISTRICT 16) - Ten separate actions were approved resulting in the annexation of parcels amounting to 2.01 acres, 0.39 acres, 14.20 acres, 3.04 acres, 9.54 acres, 5.06 acres, 222 acres, 7.96 acres, 23.37 acres and 0.79 acres.

CITY OF NORTH POLE (ELECTION DISTRICT 18) - Three separate actions for annexation were approved resulting in the annexation of parcels amounting to 137 acres, 116.07 acres and 190 acres.

CITY OF KODIAK (ELECTION DISTRICT 27) - Two separate actions for annexation were approved resulting in the annexation of parcels amounting to 10.92 acres and 10.5 acres.

MUNICIPAL DISSOLUTIONS:

CITY OF AKIACHAK (ELECTION DISTRICT 25) - Residents of Akiachak have petitioned for the dissolution of the City of Akiachak which was incorporated in 1974. The Local Boundary Commission has scheduled a hearing on the petition to be conducted in Akiachak on March 2, 1985.

STATE OF ALASKA
LOCAL BOUNDARY COMMISSION

RECOMMENDATION NUMBER ONE TO THE
FIRST SESSION OF THE FOURTEENTH LEGISLATURE

RECOMMENDATION FOR THE ANNEXATION OF TERRITORY
TO THE CITY OF FAIRBANKS

SUMMARY OF PROPOSED ACTION

The City of Fairbanks petitioned for the annexation of approximately 117 acres of land contiguous to the City and bounded by Peger, Davis and Hill Roads. The petition for annexation was authorized by Fairbanks City Ordinance Number 4351 and 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 held its hearing on the petition in Fairbanks on November 30, 1984.

Approximately 77 of the 117 acres proposed for annexation were subdivided for residential/business purposes. The subdivision, known as the Jones Subdivision, contained a population of 96 individuals, approximately 35 dwellings and a small number of businesses. The balance of the territory, comprised of one 40 acre parcel, was under development. A 142 unit adult apartment complex was under construction on the 40 acre parcel; none of the apartments were yet occupied. An additional 408 apartments were planned for development, which would bring the total number of apartments within the complex to 550.

Both the City of Fairbanks and the privately-owned College Utilities Corporation had petitioned the Alaska Public Utilities Commission for the authority to provide water and sewer utilities service to the territory proposed for annexation. The decision rendered by the Local Boundary Commission on this annexation is not to be construed as being a judgment on the respective abilities of the competing utilities to provide service to the area being annexed to the City of Fairbanks.

Mr. Dennis Wise, the developer of the apartment complex, opposed the annexation of his 40 acre parcel principally on the grounds that he would prefer the College Utilities Corporation to provide water and sewer utilities services and because he opposed regulation of the construction of his project by the City Building Department.

The area proposed for annexation is within the Fairbanks North Star Borough, which has expressed no objections to the proposed annexation and has indicated to the City of Fairbanks that it

has no assets or liabilities within the area which would be acquired or incurred by the City of Fairbanks should the annexation be effected.

FINDINGS OF FACT

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

1. The area proposed for annexation is within the Fairbanks North Star Borough which expressed no objections to the proposed annexation.
2. The territory proposed for annexation includes two distinct areas; the Jones Subdivision and Mr. Wise's development.
3. Only the Jones Subdivision is presently developed, with a population of 96 residents, according to the Borough.
4. There is no evidence of substantial opposition to the proposed annexation from the residents of the Jones Subdivision. No polling of residents' preferences regarding annexation was undertaken by the City. However, testimony by a resident of the Jones Subdivision indicated that nearly every household had been contacted concerning the proposed annexation and that only three residents were opposed to the proposed annexation. Notice of the Commission's hearing was extensive, in that it was published three times in the Fairbanks Daily News-Miner. Further, a resident of the subdivision testified that she had personally delivered copies of a notice of the meeting to each household in the subdivision.
5. The Jones Subdivision area is in need of the following City services which it does not presently receive: road construction and maintenance and drainage control.
6. The Jones Subdivision is urban in character: it has a population density of 798 residents per square mile, which is greater than the City as a whole. Additionally, it contains significant residential and commercial development and the property is subdivided.
7. The 40 acre parcel of land owned by Mr. Wise is also urban in character. The property is being developed for residential purposes and the anticipated population density of this parcel of land will be much greater than that of the City as a whole.
8. The current and anticipated future development of the 40

acre parcel of land owned by Mr. Wise will result in the generation of demand for municipal services which can be most efficiently provided by the City of Fairbanks. The anticipated demand for municipal services is particularly great with respect to road maintenance and drainage.

9. The annexation of Mr. Wise's development would enable the City of Fairbanks to exercise a desirable degree of control over development of that property. In particular, the Commission finds that the health and safety of the future occupants of the development would be better ensured if the development were subject to the City's building codes.
10. The question of the health, welfare and safety of City residents being endangered by conditions existing or developing within the property owned by Mr. Wise was raised, particularly with respect to the apparent significant increase in vehicular traffic which will result from the development, regardless of whether future residents of the Wise property exit on 19th or Davis Road. However, the Commission made no determination as to what extent such traffic might endanger the health, safety or welfare of City residents.
11. The City of Fairbanks has made a good faith attempt to ensure that the voting rights of people in the territory proposed for annexation will not be adversely affected by the annexation. The City's actions in this regard include evaluating the ethnic population composition of the area proposed to be annexed in relation to overall City and Borough patterns; and contacting representatives of various minority groups. No adverse comments were offered regarding the possible infringement on voting rights at the Commission's hearing.

STATEMENT OF DECISION

Based on the aforementioned facts, all of the members of the Commission who were present at the hearing and subsequent decisional session have determined that both the Jones Subdivision and the Wise property meet many of the standards for the annexation of contiguous territory to a city. Therefore, the September 12, 1984 petition of the City of Fairbanks for the annexation of territory was approved without modification by the Local Boundary Commission.

RECOMMENDATION

On this basis, the Local Boundary Commission hereby recommends to the First Session of the Fourteenth Legislature that the territory described below be annexed to the City of Fairbanks:

The SW 1/4 of the NE 1/4 of Section 17, T1S, R1W, F.M. and the E.M. Jones Homestead Subdivision recorded in the Fairbanks District Recorders Office as Instrument Number 156.156 on May 25, 1955, the exceptions to these contiguous areas are as follows: those portions of Peger Road and Davis Road rights-of-way that lie within these areas and all of Block 3 of the same E. M. Jones Homestead Subdivision.

NOTE

On January 11, 1985, Dennis Wise and Wise Enterprises, Inc., filed an appeal of the decision of the Local Boundary Commission regarding this matter in Superior Court.

STATE OF ALASKA
LOCAL BOUNDARY COMMISSION

RECOMMENDATION NUMBER TWO TO THE
FIRST SESSION OF THE FOURTEENTH LEGISLATURE

RECOMMENDATION FOR THE ANNEXATION OF TERRITORY
TO THE CITY OF TOGIAK

SUMMARY OF PROPOSED ACTION

The City of Togiak petitioned for the annexation of Togiak Bay, consisting of approximately 183 square miles of territory contiguous to the City. 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 area proposed for annexation consisted of Togiak Bay up to the mean high tideline and bounded on the south by a straight line between the southernmost points of Rocky Point and Tongue Point. Togiak Bay is an area of intense commercial fishing activity during the spring and summer months. The only permanent structure within the territory proposed for annexation is a portion of a cannery operated by Togiak Fisheries, Incorporated. The territory proposed for annexation has no permanent residents, with the possible exception of a watchman employed by Togiak Fisheries, Incorporated. However, the area experiences a large seasonal influx of population associated with commercial fishing, fish processing and related activities during the spring and summer months.

On January 12, 1985, the Commission conducted a hearing on the petition for the annexation in Togiak at the Togiak High School Gymnasium. Both written and oral testimony received by the Commission served to accentuate the frequency and severity of public safety problems attributable to heavy traffic in liquor in Togiak Bay during the fishing seasons. Testimony of local officials, primary health care providers and private individuals emphasized the futility of efforts to prevent the sale and importation of alcohol within the present municipal boundaries of Togiak because of the ready availability of alcoholic beverages from vessels in Togiak Bay during the commercial fishing seasons.

FINDINGS OF FACT

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

- I. THE TERRITORY IS IN NEED OF MUNICIPAL SERVICES WHICH THE CITY CAN PROVIDE MORE EFFICIENTLY THAN ANOTHER MUNICIPALITY.
- A. Testimony by the City of Togiak and local residents demonstrated that police protection in Togiak Bay is needed to effectively enforce the local ban on the importation and sale of alcohol, especially during the herring and salmon commercial fishing seasons, and that these services are not being effectively provided by the State of Alaska. A neighboring community, Twin Hills, is unincorporated and is presently provided with police protection services by officers from Togiak. Thus, the City of Togiak could provide the needed police protection services more efficiently than any other municipality.
- II. THE HEALTH, WELFARE OR SAFETY OF CITY RESIDENTS IS ENDANGERED BY CONDITIONS EXISTING OR DEVELOPING IN THE TERRITORY AND ANNEXATION WILL ENABLE THE CITY TO REMOVE OR RELIEVE THOSE CONDITIONS.
- A. Testimony concerning alcohol-related accidents and public health problems which was given by local law enforcement officials, primary health care providers and private citizens gave strong support to the petitioner's assertion that the health and welfare of city residents is endangered by activities in Togiak Bay, especially during the commercial herring and salmon fishing seasons. Alcohol was cited as a factor in several drownings in Togiak Bay during the past 3 or 4 years.
- B. Additional revenues generated by raw fish taxes which the City of Togiak could expect to receive as a result of annexation of Togiak Bay would provide financial resources sufficient to purchase needed equipment such as a boat and to hire trained personnel to enforce the prohibition of the sale and importation of alcohol in the community.
- III. RESIDENTS OR PROPERTY OWNERS WITHIN THE TERRITORY RECEIVE OR MAY REASONABLY BE EXPECTED TO RECEIVE, DIRECTLY OR INDIRECTLY, THE BENEFIT OF CITY GOVERNMENT WITHOUT COMMENSURATE PROPERTY TAX CONTRIBUTIONS, WHETHER CITY SERVICES ARE RENDERED OR RECEIVED INSIDE OR OUTSIDE THE CITY.
- A. Primary health care, public safety and other municipal services are available to transient Togiak Bay residents. These people presently do not contribute directly to the local support of such services.

STATEMENT OF DECISION

Based on the aforementioned facts, all of the members of the Commission who were present at the hearing and subsequent decisional session have determined that the petition submitted by the City of Togiak for the annexation of Togiak Bay meets several of the standards for the annexation of contiguous territory to a city. Therefore, the September 18, 1984 petition of the City of Togiak for the annexation of territory as described in Togiak City Resolution Number 84-02 is approved without modification by the Local Boundary Commission.

This annexation is deemed necessary because the recommendation for the creation of a service area for Togiak Bay pursuant to AS 29.03.020, submitted by the Commission to the First Session of the Thirteenth Legislature, was not enacted.

The possibility of Twin Hills' future incorporation was discussed by the Commission. Should such an eventuality occur, appropriate boundary adjustments in Togiak Bay should be made at that time.

The provisions of the Federal Voting Rights Act of 1965, as amended, have been considered. They do not appear to have been violated.

RECOMMENDATION

On this basis, the Local Boundary Commission hereby recommends to the First Session of the Fourteenth Legislature that the territory described below be annexed to the City of Togiak:

Starting at the mean high tideline of the southern most tip of Tongue Point on the west side of Togiak Bay; thence moving in a northeasterly direction along a straight line to the mean high tideline of the southern most tip of Rocky Point on the east side of Togiak Bay; thence meandering in a northerly direction along the mean high tideline of the east side of Togiak Bay to the intersection with the east bank of the mouth of the Togiak River; thence meandering in a northerly direction along the east bank of the Togiak River to the intersection with the northern boundary of the protracted Section 6, T13S, R66W, Seward Meridian (S.M.); thence west along the section line to the intersection with the west bank of the Togiak River; thence meandering in a southerly direction along the west bank of the Togiak River to the

intersection with the mean high tideline of the western side of Togiak Bay; thence meandering in a southerly direction along the mean high tideline of the west side of Togiak Bay to the intersection with the southern most tip of Tongue Point, the true point of beginning, containing approximately 183 square miles.

ARRIVED

ALASKA PUBLIC OFFICES COMMISSION
610 C Street, Suite 211
Anchorage, AK 99501
(907) 276-4176

APR 11 1984



APOC-ANCH

PM HC

4/10-84

1984 STATE OR MUNICIPAL CONFLICT OF INTEREST STATEMENT

PART 1. GENERAL INFORMATION

Reporting Period: January 1, 1983 to December 31, 1983.

Name of Reporting Official: Josephine M. Anderson

Public Office or Position Held, or Candidate for: LOCAL BOUNDARY COMMISSION

Filing or Appointment Date: JAN 31 1981 Term of Office: from 1/81 to 1/85

Resident Address: 204 OCEAN VIEW DR WRANGELL AK 99929
Street City Zip Code

Mailing Address: Box 351 WRANGELL AK 99929
Street City Zip Code

Home Phone: 907-874-3590 Work Phone: 907-874-3935

Family Members of Reporting Official (list names):

Spouse: VERN A Dependent Children: _____

Nondependent Children, Living with Reporting Official: _____

PART 2. CERTIFICATION

I, the undersigned, certify that the information contained in this Statement is, to the best of my knowledge, true, correct and complete. In the absence of a Notary Public or other official authorized to administer an oath, I personally certify under penalty of perjury that the Statement is true. By statute, a person who makes a false sworn certification which s/he does not believe to be true is guilty of perjury.

Josephine M. Anderson April 9 1984 Wrangell Ak.
SIGNATURE DATE LOCATION

Personally, Josephine M. Anderson appeared before me this 9th day of April 1984,

SEAL

Don M. Sullivan
Notary State of Alaska
My Commission Expires May 25, 1987

*The reporting period is the preceding calendar year. A 1984 Statement includes financial information for the reporting period of January - December 1983. The appointed official who takes office in 1984, the candidate who files for office in 1984, or the person who files an annual Statement due April 15, 1984 must report information for January-December 1983.

PART 3. SOURCES OF INCOME AND CAPITAL GAINS OVER \$100

Name
(of official, spouse, children)

Source of Income
(show name only; do NOT list amounts)

Salary:

Source:

Josephine
VERN A
VERN A
JOSEPHINE
VERN A

STATE OF ALASKA Division of Public Ass
SSA
ALB
PFD Permanent Fund Dividend

Rentals: (include business name)

Tenants:

~~N/A~~
Pelecin Shipping Co (Vern)

~~N/A~~
Bow Harbor Seafood

Dividends and Interest:

Source:

~~N/A~~
Josephine + VERN A
VERN A
Josephine

~~N/A~~
ALASKA FEDERAL SAVING
NEW YORK LIFE INS.
NBA

Self Employment: (include business name)

Source: (clients, customers, or "retail")

~~N/A~~
~~Pelecin Shipping Co~~
Pelecin Shipping Co is not in
operation any more

~~BAR HARBOR SEAFOODS~~
no clients or customers

Other:

PART 4. BUSINESS INVOLVEMENT OR OWNERSHIP INTEREST AS AN OFFICER, DIRECTOR, PARTNER, PROPRIETOR, OR EMPLOYEE

Name (of official, spouse, children)	Nature of Involvement or Interest	Name and Address of Business
<u>VERN A</u>	<u>PARTNER</u>	<u>RELIANCE SHRIMP CO</u> <u>663 SHAKES ST</u> <u>BOX 381 WRANGELL AK</u>
<u>VERN A</u>	<u>Stockholder</u>	<u>STIKING DEVELOPMENT CORP</u> <u>Box 351 WRANGELL AK</u>
<u>no controll. Interest</u>		

PART 5. REAL PROPERTY INTERESTS OWNED, INCLUDING OPTIONS TO BUY

Name (of official, spouse, children)	Identity of Property, Location and Current Use	Nature of Interest
<u>VERN A & Josephine</u>	<u>BLOCK 84 LOT 3-D</u> <u>204 Ocean View Dr</u> <u>WRANGELL AK 99929</u> <u>(Family Home)</u>	<u>CO-OWNERS</u>
<u>VERN A</u>	<u>BLOCK 7A LOT 17 PT</u> <u>663 SHAKES ST</u> <u>WRANGELL AK 99929</u> <u>CANNERY BUILDING</u>	<u>PARTNER</u>

PART 6. BENEFICIAL INTEREST IN TRUSTS OR OTHER FIDUCIARY RELATION

Name (of official, spouse, children)	Trustor	Assets	Extent of Interest
<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	

(Continue any section on blank paper.)

PART 7. LOANS, LOAN GUARANTEES OR OTHER FINANCIAL OBLIGATIONS OF \$500 OR MORE

Name
(of official, spouse, children)

Identity of Maker of Loan, Loan Guarantor, or Creditor

VERN A

STATE OF ALASKA DIVISION OF VETERANS AFFAIRS

PART 8. CONTRACTS AND OFFERS TO CONTRACT WITH THE STATE OR AN INSTRUMENTALITY OF STATE

Name (of official, spouse, children, parents)	State Contracting Dept. or Instrumentality	Identity of Contract	Indicate: Bid, Held, or Offered
N/A	N/A	N/A	

PART 9. LEASES OR OFFERS TO LEASE MINERAL, TIMBER, OIL OR OTHER NATURAL RESOURCES

Name (of official, spouse, children, parents)	Nature of Lease	Identity of Lease	Indicate: Held or Offered
N/A	N/A	N/A	

FORWARD COMPLETED CONFLICT OF INTEREST STATEMENT TO:

STATE OFFICIALS:

MUNICIPAL OFFICIALS:

Alaska Public Offices Commission
610 C Street, Suite 211
Anchorage, AK 99501

Your Local City or Borough Clerk's Office

ARRIVED

PART 3. SOURCES OF INCOME AND CAPITAL GAINS OVER \$100
(SEE MANUAL OF INSTRUCTIONS, PAGE 5)

MAY 25 1984

APOC-ANCH

~~HC~~

922-84

NAME (OFFICIAL, SPOUSE, CHILDREN)	SOURCE OF INCOME (SHOW NAME ONLY; DO NOT LIST AMOUNTS)	CATEGORY (SALARY, RENTALS, DIVIDENDS, ETC.)
Josephine	State of Alaska ^{Public} Treasury Department	Salary
Josephine	Permanent Fund Dividend	Dividend
Josephine	National Bank of Alaska	Interest
Verna	Social Security	Pension
Verna	Alaska Savings	Bonus
Verna	Permanent Fund Dividend	Dividend
Verna (Pleasant Islands Co)	Beir Harbor Seafood	Rental
Verna	New York Life Co	Dividend
Josephine & Verna A	Alaska Medical Society	Interest

(CONTINUE ON BLANK SHEET IF NECESSARY)

CERTIFICATION OF REPORTING OFFICIAL

I, THE UNDERSIGNED, DECLARE AND CERTIFY THIS AMENDMENT TO MY 1984 CONFLICT OF INTEREST STATEMENT IS, TO THE BEST OF MY KNOWLEDGE, TRUE, CORRECT, AND COMPLETE. IN THE ABSENCE OF A NOTARY PUBLIC OR OTHER OFFICIAL AUTHORIZED TO ADMINISTER AN OATH, I PERSONALLY CERTIFY UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE.*

SIGNED: Josephine M. Anderson
LOCATION SIGNED: Illwaco, OR 97129

DATE: 5/20/84

*UNDER AS 09.63.020(B), A PERSON WHO MAKES A FALSE SWORN CERTIFICATION WHICH HE DOES NOT BELIEVE TO BE TRUE, UNDER PENALTY OF PERJURY, IS GUILTY OF PERJURY.

ARRIVED

ALASKA PUBLIC OFFICES COMMISSION
610 C Street, Suite 211
Anchorage, AK 99501
(907) 276-4176

FEB 10 1984



APOC-ANCH
PM HC
2/8-84

1984 STATE OR MUNICIPAL CONFLICT OF INTEREST STATEMENT

PART 1. GENERAL INFORMATION

Reporting Period: January 1, 1983 to December 31, 1983.*

Name of Reporting Official: Charles B. Bettsworth

Public Office or Position Held, or Candidate for: Local Boundary Commission Member

Filing or Appointment Date: 1978 Term of Office: from _____ to 1/9/85

Resident Address: 7.7 Chena Ridge Fairbanks Ak 99701
Street City Zip Code

Mailing Address: Box 73209 Fairbanks Ak 99707
Street City Zip Code

Home Phone: 479-3517 Work Phone: 457-5780

Family Members of Reporting Official (list names):

Spouse: Betty J. Dependent Children: Amey, Alex Bettsworth
Jolene Necker

Nondependent Children, Living with Reporting Official: Robert S. Bettsworth

PART 2. CERTIFICATION

I, the undersigned, certify that the information contained in this Statement is, to the best of my knowledge, true, correct and complete. In the absence of a Notary Public or other official authorized to administer an oath, I personally certify under penalty of perjury that the Statement is true. By statute, a person who makes a false sworn certification which s/he does not believe to be true is guilty of perjury.

CB Bettsworth 2/6/84 Fairbanks Ak
SIGNATURE DATE LOCATION

*The reporting period is the preceding calendar year. A 1984 Statement includes financial information for the reporting period of January - December 1983. The appointed official who takes office in 1984, the candidate who files for office in 1984, or the person who files an annual Statement due April 15, 1984 must report information for January-December 1983.

PART 3. SOURCES OF INCOME AND CAPITAL GAINS OVER \$100

Name
(of official, spouse, children)

Source of Income
(show name only; do NOT list amounts)

Salary:

Charles

Source:

Charles Bettendorf & Co.

Rentals: (include business name)

Charles & Betty J.

Tenants:

Charles Bettendorf & Co.

Dividends and Interest:

Source:

Self Employment: (include business name)

Source: (clients, customers, or "retail")

Other:

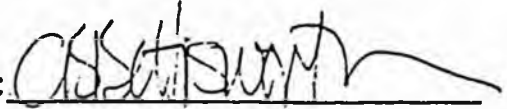
PART 3. SOURCES OF INCOME AND CAPITAL GAINS OVER \$100
(SEE MANUAL OF INSTRUCTIONS, PAGE 5)

NAME (OFFICIAL, SPOUSE, CHILDREN)	SOURCE OF INCOME (SHOW NAME ONLY; DO NOT LIST AMOUNTS)	CATEGORY (SALARY, RENTALS, DIVIDENDS, ETC.)
<u>Charles</u>	<u>Powerford Offices</u>	<u>rentals (Charles Bettencourt)</u>
<u>Charles</u>	<u>Pet Investments</u>	<u>none</u>
<u>Charles</u>	<u>Charles Bettencourt & Co.</u>	<u>Salary *</u>
	<u>* all clients listed in #8 plus the following</u>	
	<u>Fairbanks North Star Borough</u>	
	<u>Palmer City School District</u>	
	<u>Century Eng'g</u>	
	<u>NBBF Space Planning</u>	
	<u>Beck Building Construction</u>	
	<u>Fish. Youth Services</u>	<u>University of Alaska</u>
	<u>Mike MacFarland</u>	<u>City of North Pole</u>

(CONTINUE ON BLANK SHEET IF NECESSARY)

CERTIFICATION OF REPORTING OFFICIAL

I, THE UNDERSIGNED, DECLARE AND CERTIFY THIS AMENDMENT TO MY 1984 CONFLICT OF INTEREST STATEMENT IS, TO THE BEST OF MY KNOWLEDGE, TRUE, CORRECT, AND COMPLETE. IN THE ABSENCE OF A NOTARY PUBLIC OR OTHER OFFICIAL AUTHORIZED TO ADMINISTER AN OATH, I PERSONALLY CERTIFY UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE.**

SIGNED: 

DATE: 6/12/84 LOCATION SIGNED: Fairbanks AK

**UNDER AS 09.63.020(B), A PERSON WHO MAKES A FALSE SWORN CERTIFICATION WHICH HE DOES NOT BELIEVE TO BE TRUE, UNDER PENALTY OF PERJURY, IS GUILTY OF PERJURY.

PART 4. BUSINESS INVOLVEMENT OR OWNERSHIP INTEREST AS A STOCKHOLDER, OWNER, OFFICER, DIRECTOR, PARTNER, PROPRIETOR, OR EMPLOYEE

Name (of official, spouse, children)	Nature of Involvement or Interest	Name and Address of Business
<u>Charles</u>	<u>President</u>	<u>Charles Bethsworth & Co.</u>
<u>Charles & Betty J.</u>	<u>Partners</u>	<u>Box 73209 Fairbanks Superfront Offices</u>
<u>Charles</u>	<u>Partner</u>	<u>212 Front St. Fairbanks. Pet Investment</u>

PART 5. REAL PROPERTY INTERESTS OWNED, INCLUDING OPTIONS TO BUY

Name (of official, spouse, children)	Identity of Property, Location and Current Use	Nature of Interest
<u>Charles & Betty</u>	<u>7.7 Chena Redai</u>	<u>owner</u>
	<u>Fairbanks - residence</u>	
<u>Charles & Betty</u>	<u>212 Front St. Fairbanks.</u>	<u>owner</u>
	<u>office building</u>	

PART 6. BENEFICIAL INTEREST IN TRUSTS OR OTHER FIDUCIARY RELATION

Name (of official, spouse, children)	Trustor	Assets	Extent of Interest
<u>N/A</u>			

(Continue any section on blank paper.)

PART 7. LOANS, LOAN GUARANTEES OR OTHER FINANCIAL OBLIGATIONS OF \$500 OR MORE

Name (of official, spouse, children)	Identity of Maker of Loan, Loan Guarantor, or Creditor
<i>Charles & Betty</i>	<i>1st Natl Bank residence & office building</i>

PART 8. CONTRACTS AND OFFERS TO CONTRACT WITH THE STATE OR AN INSTRUMENTALITY OF STATE

Name (of official, spouse, children, parents)	State Contracting Dept. or Instrumentality	Identity of Contract	Indicate: Bid, Held, or Offered
<i>Charles</i>	<i>DOT P F</i>	<i>Ketchikan AAFA</i>	<i>\$250,000.00</i>
		<i>Ketchikan Airways</i>	<i>In registration</i>
		<i>Nome, AAFA</i>	<i>\$124,000</i>
		<i>Deadhorse Crank & Access Inc. 110,300</i>	
		<i>Ft. Reliance Flight Facility</i>	<i>10,100.00</i>
		<i>Umanat/Reliance Maint</i>	<i>\$100.00</i>

PART 9. LEASES OR OFFERS TO LEASE MINERAL, TIMBER, OIL OR OTHER NATURAL RESOURCES

Name (of official, spouse, children, parents)	Nature of Lease	Identity of Lease	Indicate: Held or Offered
<i>N/A</i>			

FORWARD COMPLETED CONFLICT OF INTEREST STATEMENT TO:

STATE OFFICIALS:

MUNICIPAL OFFICIALS:

Alaska Public Offices Commission
510 C Street, Suite 211
Anchorage, AK 99501

Your Local City or Borough Clerk's Office

ARRIVED

ALASKA PUBLIC OFFICES COMMISSION
610 C Street, Suite 211
Anchorage, AK 99501
(907) 276-4176

MAY 1 1984

APOC - ANCH

PM HC

4/30-84



1984 STATE OR MUNICIPAL CONFLICT OF INTEREST STATEMENT

PART 1. GENERAL INFORMATION

Reporting Period: January 1, 1983 to December 31, 1983.*

Name of Reporting Official: Bert H. Greist

Public Office or Position Held, or Candidate for: Local Boundary Commission

Filing or Appointment Date: _____ Term of Office: from _____ to 84

Resident Address: PO-Box 33, Selawik, Alaska 99770
Street City Zip Code

Mailing Address: 403 Wedgewood Manor #1-5, Fairbanks, Alaska 99701
Street City Zip Code

Home Phone: 452-8802 Work Phone: _____

Family Members of Reporting Official (list names):

Spouse: _____ Dependent Children: ~~Shona~~ Shona Greist

Nondependent Children, Living with Reporting Official: _____

PART 2. CERTIFICATION

I, the undersigned, certify that the information contained in this Statement is, to the best of my knowledge, true, correct and complete. In the absence of a Notary Public or other official authorized to administer an oath, I personally certify under penalty of perjury that the Statement is true. By statute, a person who makes a false sworn certification which s/he does not believe to be true is guilty of perjury.

Bert H. Greist
SIGNATURE

Feb. 9, 1984
DATE

Fairbanks, Ak.
LOCATION

*The reporting period is the preceding calendar year. A 1984 Statement includes financial information for the reporting period of January - December 1983. The appointed official who takes office in 1984, the candidate who files for office in 1984, or the person who files an annual Statement due April 15, 1984 must report information for January-December 1983.

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PART 3. SOURCES OF INCOME AND CAPITAL GAINS OVER \$100

Name
(of official, spouse, children)

Source of Income
(show name only; do NOT list amounts)

Salary:

Bert Greist

Source:

Rural Ventures, Inc.

Rentals: (include business name)

Tenants:

Dividends and Interest:

Bert Greist

Source:

Nava Regional Corp., Inc

Self Employment: (include business name)

Source: (clients, customers, or "retail")

none

Other:

none

(Continue any section on blank paper.)

PART 4. BUSINESS INVOLVEMENT OR OWNERSHIP INTEREST AS A STOCKHOLDER, OWNER, OFFICER, DIRECTOR, PARTNER, PROPRIETOR, OR EMPLOYEE

Name (of official, spouse, children)	Nature of Involvement or Interest	Name and Address of Business
<u>Bert Greist</u>	<u>Stockholder; Director</u>	<u>NANA Regional Corp.</u>
<u>Kotzebue, AK. 99752</u>		
/	/	/
/	/	/
/	/	/
/	/	/
/	/	/

PART 5. REAL PROPERTY INTERESTS OWNED, INCLUDING OPTIONS TO BUY

Name (of official, spouse, children)	Identity of Property, Location and Current Use	Nature of Interest
/	/	/
/	/	/
/	/	/
/	/	/
/	/	/
/	/	/
/	/	/
/	/	/

PART 6. BENEFICIAL INTEREST IN TRUSTS OR OTHER FIDUCIARY RELATION

Name (of official, spouse, children)	Trustor	Assets	Extent of Interest
/	/	/	/
/	/	/	/
/	/	/	/

(Continue any section on blank paper.)

PART 7. LOANS, LOAN GUARANTEES OR OTHER FINANCIAL OBLIGATIONS OF \$500 OR MORE

Name
(of official, spouse, children)

Identity of Maker of Loan, Loan Guarantor, or Creditor

None

[Handwritten signature]

PART 8. CONTRACTS AND OFFERS TO CONTRACT WITH THE STATE OR AN INSTRUMENTALITY OF STATE

Name (of official, spouse, children, parents)

State Contracting Dept. or Instrumentality

Identity of Contract

Indicate: Bid, Held, or Offered

None

[Handwritten signature]

PART 9. LEASES OR OFFERS TO LEASE MINERAL, TIMBER, OIL OR OTHER NATURAL RESOURCES

Name (of official, spouse, children, parents)

Nature of Lease

Identity of Lease

Indicate: Held or Offered

None

[Handwritten signature]

FORWARD COMPLETED CONFLICT OF INTEREST STATEMENT TO:

STATE OFFICIALS:

MUNICIPAL OFFICIALS:

Alaska Public Offices Commission
610 C Street, Suite 211
Anchorage, AK 99501

Your Local City or Borough Clerk's Office

ALASKA PUBLIC OFFICES COMMISSION
610 C Street, Suite 211
Anchorage, AK 99501
(907) 276-4176



1984 STATE OR MUNICIPAL CONFLICT OF INTEREST STATEMENT

RECEIVED
JUN 4 1984

PART 1. GENERAL INFORMATION

APOC - ANCH
PM HC
5/31/84

Reporting Period: January 1, 1983 to December 31, 1983.*

Name of Reporting Official: David George Hansen

Public Office or Position Held, or Candidate for: Alaska Local Boundary Commission

Filing or Appointment Date: March 30, 1984 Term of Office: from 1/31/84 to 11/31/88

Resident Address: P.O. Box 37 (Lot 8, BIKID, Old Hope, Twisted) Hope AK 99605
Street City Zip Code

Mailing Address: 1577 C Street Anchorage AK 99501
Street City Zip Code

Home Phone: 272-5390 Work Phone: 276-8827

Family Members of Reporting Official (list names):

Spouse: Sheila Evans Hansen Dependent Children: N.A.

Nondependent Children, Living with Reporting Official: N.A.

PART 2. CERTIFICATION

I, the undersigned, certify that the information contained in this Statement is, to the best of my knowledge, true, correct and complete. In the absence of a Notary Public or other official authorized to administer an oath, I personally certify under penalty of perjury that the Statement is true. By statute, a person who makes a false sworn certification which s/he does not believe to be true is guilty of perjury.

David G. Hansen
SIGNATURE

5/24/84
DATE

Hope, Alaska, 99605
LOCATION

*The reporting period is the preceding calendar year. A 1984 Statement includes financial information for the reporting period of January - December 1983. The appointed official who takes office in 1984, the candidate who files for office in 1984, or the person who files an annual Statement due April 15, 1984 must report information for January-December 1983.

T.

PART 3. SOURCES OF INCOME AND CAPITAL GAINS OVER \$100

Name
(of official, spouse, children)

Source of Income
(show name only; do NOT list amounts)

Salary:

Sheila Evans Hanson

Source:

State of Alaska, Department of
Natural Resources

Rentals: (include business name)

N.A.

Tenants:

Dividends and Interest:

David G and Sheila Evans Hanson

David G. Hanson

David G. Hanson

Source:

National Bank of Alaska

Long Island Lighting Co.

Oppenheimer's Directors Fund

Self Employment: (include business name)

Arktos Associates/ David G. Hanson

Source: (clients, customers, or "retail")

Bristol Bay Native Corp.

NANA Inc.

American Appraisal Co.

Aleut Corporation

Geo Research Inc.

Sheila Evans Hanson, The Law Researcher

Arktos Associates

Other: David G. Hanson

Anchorage Public Transit Board Meeting

Expense Compensation

David G. and Sheila Evans Hanson

Alaska Permanent Fund

PART 4. BUSINESS INVOLVEMENT OR OWNERSHIP INTEREST AS A STOCKHOLDER, OWNER, OFFICER, DIRECTOR, PARTNER, PROPRIETOR, OR EMPLOYEE

Name (of official, spouse, children)	Nature of Involvement or Interest	Name and Address of Business
<u>David G. Hanson</u>	<u>Owner</u>	<u>Arktos Associates</u> <u>1577 C St. Anchorage, AK.</u> <u>99501</u>
<u>Sheila Evana Hanson</u>	<u>Owner</u>	<u>The Lone Researches</u> <u>P.O. Box 34, Hope, AK, 99600</u>
<u>David G. Hanson</u>	<u>Stock holder</u>	<u>Long Island Lighting Co.</u> <u>New York City, New York</u>
<u>David G. Hanson</u>	<u>Stock holder</u>	<u>Kaiser Corporation</u> <u>27400 East 5th St.</u> <u>P.O. Box -387, San Bernardino</u> <u>California, 92402</u>

PART 5. REAL PROPERTY INTERESTS OWNED, INCLUDING OPTIONS TO BUY

Name (of official, spouse, children)	Identity of Property, Location and Current Use	Nature of Interest
<u>David G. Hanson</u>	<u>Lot 8 B/K 10 Old Hope Townsite,</u> <u>Hope, AK. (Permanent Residence)</u>	<u>Owner</u>
<u>David G. and Sheila ^{Evana} Hanson</u>	<u>Lot 7 B/K 10 Old Hope Townsite</u> <u>Hope, AK. (Permanent Residence)</u>	<u>Co-owners</u>
<u>David G. and Sheila ^{Evana} Hanson</u>	<u>Lot 9 B/K 10 Old Hope Townsite</u> <u>Hope, AK. (Investment)</u>	<u>Co-owners</u>
<u>David G. and Sheila ^{Evana} Hanson</u>	<u>2447 Tuacau St. Anchorage,</u> <u>AK. (Temporary Anchorage Residence)</u>	<u>Co-owners</u>

PART 6. BENEFICIAL INTEREST IN TRUSTS OR OTHER FIDUCIARY RELATION

Name (of official, spouse, children)	Trustor	Assets	Extent of Interest
<u>N.A.</u>			

(Continue any section on blank paper.)

PART 7. LOANS, LOAN GUARANTEES OR OTHER FINANCIAL OBLIGATIONS OF \$500 OR MORE

Name (of official, spouse, children)	Identity of Maker of Loan, Loan Guarantor, or Creditor
<i>David G and Sheila Ferra Hrein</i>	<i>National Bank of Alaska</i>
" "	<i>1st National Bank of Alaska</i>
" "	<i>state of Alaska (mortgage on land purchases)</i>

PART 8. CONTRACTS AND OFFERS TO CONTRACT WITH THE STATE OR AN INSTRUMENTALITY OF STATE

Name (of official, spouse, children, parents)	State Contracting Dept. or Instrumentality	Identity of Contract	Indicate: Bid, Held, or Offered
<i>N.A.</i>			

PART 9. LEASES OR OFFERS TO LEASE MINERAL, TIMBER, OIL OR OTHER NATURAL RESOURCES

Name (of official, spouse, children, parents)	Nature of Lease	Identity of Lease	Indicate: Held or Offered
<i>N.A.</i>			

FORWARD COMPLETED CONFLICT OF INTEREST STATEMENT TO:

STATE OFFICIALS:

Alaska Public Offices Commission
610 C Street, Suite 211
Anchorage, AK 99501

MUNICIPAL OFFICIALS:

Your Local City or Borough Clerk's Office

Part 4 - Continued

<u>Name</u>	<u>Nature of Involvement or Interest</u>	<u>Name and Address</u>
David G. Hanson	Stock holder	Southmark Corp., 1601 L.B. J. Dallas, Texas, 75234 (Sole 12/83)
David G. Hanson	Stock holder	Oppenheimer Directors Fund, Inc. Two Broadway, New York, N.Y. 10004
David G. Hanson	Stock holder	Advest Inc., The Advest Bldg. Six Central Row, Hartford, CT. 06103
David G. Hanson	Stock Holder	Lockheed Aircraft Corp. Bucbark, California

Part 5 - Continued

<u>Name</u>	<u>Property location/use</u>	<u>Nature of Interest</u>
David G. Hanson	Lot 0003, Section 6, T18N., R4W, Second Meridian (Cross Honey Lake) - Use: Recreation	Owner
Sheila Evans Hanson	Tracts A, B, and D of Section 23, Tracts B and D, of SW 1/4 NE 1/4 of Section 24 Use - Future agricultural Project	Owner of Agricultural Rights

ALASKA PUBLIC OFFICES COMMISSION
610 C Street, Suite 211
Anchorage, AK 99501
(907) 276-4176

ARRIVED

DEC 27 1984

DEC 27 1984

ANOH
HC



APOC - ANOH

1984 STATE OR MUNICIPAL CONFLICT OF INTEREST STATEMENT

PART 1. GENERAL INFORMATION

Reporting Period: January 1, 1983 to December 31, 1983.*

Name of Reporting Official: GILLIAN ROSEMARY SMYTHE

Public Office or Position Held, or Candidate for: CHAIRMAN, LOCAL BOUNDARY COMMISSION

Filing or Appointment Date: _____ Term of Office: from _____ to _____

Resident Address: 1044 POTLATCH CIRCLE ANCHORAGE 99503
Street City Zip Code

Mailing Address: SAME AS ABOVE
Street City Zip Code

Home Phone: 279-8872 Work Phone: 276-1456

Family Members of Reporting Official (list names):

Spouse: _____ Dependent Children: _____

Nondependent Children, Living with Reporting Official: _____

PART 2. CERTIFICATION

I, the undersigned, certify that the information contained in this Statement is, to the best of my knowledge, true, correct and complete. In the absence of a Notary Public or other official authorized to administer an oath, I personally certify under penalty of perjury that the Statement is true. By statute, a person who makes a false sworn certification which s/he does not believe to be true is guilty of perjury.

Gillian Smythe 12/12/84 Anchorage
SIGNATURE DATE LOCATION

*The reporting period is the preceding calendar year. A 1984 Statement includes financial information for the reporting period of January - December 1983. The appointed official who takes office in 1984, the candidate who files for office in 1984, or the person who files an annual Statement due April 15, 1984 must report information for January-December 1983.

** Moved to 1044 Potlatch Circle, Anchorage 99503 in 1984. 1983 address was 929 Clay Court, Anchorage 99503

PART 3. SOURCES OF INCOME AND CAPITAL GAINS OVER \$100

Name
(of official, spouse, children)

Source of Income
(show name only; do NOT list amounts)

Salary:

GILLIAN ROSEMARY SMYTHE

Source:

ALASKA CONSULTANTS, INC.

Rentals: (include business name)

GILLIAN ROSEMARY SMYTHE

Tenants:

NAMES-UNKNOWN. PROPERTY IS IN NEW ZEALAND
(MANAGED BY MR. DAVID F. GAULT, GAULT,
MITCHELL & WILSON, 38-42 WARING TAYLOR ST.,
WELLINGTON, N.Z.)

Dividends and Interest:

GILLIAN ROSEMARY SMYTHE

Source:

RAINIER BANK ALASKA / ALASKA MUT. BANK - INTEREST
E.F. HUTTON / MERRILL LYNCH -- INTEREST ON DEPOSITS
AND MUNICIPAL BOND INTEREST (NORTH
SLOPE BOROUGH GO BONDS, AHFC TAX-EXEM
BONDS, CITY AND BOROUGH OF SITKA GO BONDS,
SANTA FE UTILITY REVENUE BONDS
MUNICIPAL ASSISTANCE CORP. OF NEW YORK - BEARER BONDS
Source: (clients, customers, or "retail")

Self Employment: (include business name)

Other:

GILLIAN ROSEMARY SMYTHE

STATE OF ALASKA PERMANENT FUND DIVIDEND

(Continue any section on blank paper.)

PART 4. BUSINESS INVOLVEMENT OR OWNERSHIP INTEREST AS A STOCKHOLDER, OWNER, OFFICER, DIRECTOR, PARTNER, PROPRIETOR, OR EMPLOYEE

Name (of official, spouse, children)	Nature of Involvement or Interest	Name and Address of Business
GILLIAN ROSEMARY SMYTHE	1/2 OWNER	ALASKA CONSULTANTS, INC.
		137 E. 7TH AVENUE, ANCH. 99501

PART 5. REAL PROPERTY INTERESTS OWNED, INCLUDING OPTIONS TO BUY

Name (of official, spouse, children)	Identity of Property, Location and Current Use	Nature of Interest
GILLIAN ROSEMARY SMYTHE	929 CLAY COURT, ANCH. 99503	OWNER
	(Residence)	
GILLIAN ROSEMARY SMYTHE	COTTLEVILLE TLE, WELLINGTON, N.Z.	OWNER
	(Rental)	

ARRIVED

DEC 27 1984

APOC - ANCH
PM HC

PART 6. BENEFICIAL INTEREST IN TRUSTS OR OTHER FIDUCIARY RELATION

Name (of official, spouse, children)	Trustor	Assets	Extent of Interest

(Continue any section on blank paper.)

PART 7. LOANS, LOAN GUARANTEES OR OTHER FINANCIAL OBLIGATIONS OF \$500 OR MORE

Name (of official, spouse, children)	Identity of Maker of Loan, Loan Guarantor, or Creditor
GILLIAN ROSEMARY SMYTHE	ALASKA MUTUAL BANK - HOME LOAN
GILLIAN ROSEMARY SMYTHE	RAINIER BANK ALASKA - AUTO LOAN
GILLIAN ROSEMARY SMYTHE	{ UNITED NORTHERN BUILDING SOCIETY - HOME LOAN (N.Z.)
GILLIAN ROSEMARY SMYTHE	CREDIT LINE - CHASE MANHATTAN BANK (NY); CREDIT CARDS - AMERICAN EXPRESS, VISA

PART 8. CONTRACTS AND OFFERS TO CONTRACT WITH THE STATE OR AN INSTRUMENTALITY OF STATE

Name (of official, spouse, children, parents)	State Contracting Dept. or Instrumentality	Identity of Contract	Indicate: Bid, Held, or Offered
** ALASKA CONSULTANTS, INC.	NORTH SLOPE BOROUGH	NSB Census NSB CIP, Phase II, FY 83 NSB CIP, Phase II, FY 84	Held " "

PART 9. LEASES OR OFFERS TO LEASE MINERAL, TIMBER, OIL OR OTHER NATURAL RESOURCES

Name (of official, spouse, children, parents)	Nature of Lease	Identity of Lease	Indicate: Held or Offered
 			

FORWARD COMPLETED CONFLICT OF INTEREST STATEMENT TO:

STATE OFFICIALS:

Alaska Public Offices Commission
610 C Street, Suite 211
Anchorage, AK 99501

MUNICIPAL OFFICIALS:

Your Local City or Borough Clerk's Office

** In addition to the above, Alaska Consultants, Inc. also did work under subcontract for the Alaska Dept. of Transp. and Pub. Fac., the North Slope Borough and the City of Cordova.

STATE OF ALASKA

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

BILL SHEFFIELD, GOVERNOR

- POUCH B
JUNEAU, ALASKA 99811
PHONE: (907) 465-4700
- 949 E. 36TH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99508
PHONE: (907) 563-1073

February 15, 1985

The Honorable Edna DeVries
Chairman
Senate Committee on
Community and Regional Affairs
Pouch V
Juneau, Alaska 99811

Dear Senator DeVries:

During the February 5 meeting with the Local Boundary Commission, members of the House and Senate Community and Regional Affairs Committees expressed interest in determining whether this agency supported the Local Boundary Commission's action to approve the annexation of Togiak Bay to the City of Togiak. The answer is yes.

As you are aware, the Department prepared a report and recommendation to the Commission on this matter dated November 15, 1984. Our recommendation contained in that report was for a different action than that taken by the Commission. However, it is important to realize such reports are prepared prior to the Commission having conducted public hearings on these matters. Such public hearings are essential to the complete and careful consideration of matters brought before the Commission. Our report and recommendation is only one element of several which the Commission considers in evaluating boundary change proposals.

The extent of the problem relating to the use of alcohol in and around Togiak became much more evident at the Commission's hearing than was expressed in our report. Too, the desire and will of the citizens of the community to respond to the alcohol problem was readily demonstrated at the hearing. For these reasons, the Department believes that the annexation of Togiak Bay is in the best interests of the State and the communities of Togiak and Twin Hills.

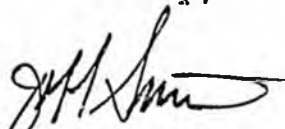
The Honorable Edna DeVries
Chairman
Senate Committee on Community and Regional Affairs
February 15, 1985
Page 2

Finally, I wish to point out that the analysis in the Department's report of additional raw fish tax revenues which the City might receive as a result of the annexation, was incomplete and may have been overestimated. It is very difficult to obtain accurate data in this regard. However, we believe additional revenues received by the City in this regard will be key to its ability to address the alcohol related problems in the territory proposed for annexation.

In conclusion, we urge you to support the recommendation of the Local Boundary Commission for the annexation of Togiak Bay to the City of Togiak. Thank you for the opportunity to clarify our position.

I have also written a letter to Representative Goll, Chairman of the House Community and Regional Affairs Committee, advising him of our position.

Sincerely,



to Emil Notti
Commissioner

cc: The Honorable Peter Goll
The Honorable Adelheid Herrmann
Gillian Smythe, Chairman, Local Boundary Commission
Marty Rutherford, Director, MRAD

BILL SHEFFIELD, GOVERNOR

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REPORT AND RECOMMENDATION TO THE ALASKA LOCAL BOUNDARY
COMMISSION ON THE PETITION BY THE CITY OF TOGIAK TO ANNEX
TOGIAK BAY, CONSISTING OF APPROXIMATELY 183 SQUARE MILES



NOVEMBER, 1984

PREFACE

Annexations are accomplished under the provisions of State laws and administrative regulations. The Local Boundary Commission reviews and acts on all petitions in accordance with Section 29.68.010 of the Alaska Statutes (AS 29.68.010) and Title 19, Chapter 10, Sections 065-090 and 450-620 of the Alaska Administrative Code (19 AAC 10.065-090 and 19 AAC 10.450-620).

The Alaska Local Boundary Commission consists of five members, one from each of the four Judicial Districts of the state, plus one member who serves at large. Commission members serve without compensation at the pleasure of the Governor.

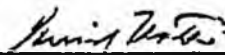
Current members of the Commission are:

SHEILA GALLAGHER, Chairman, serving at large;
JOSEPHINE ANDERSON, serving from the First Judicial District, (Southeast Alaska);
BERT GREIST, serving from the Second Judicial District, (Northwest Alaska);
DAVE HANSON, serving from the Third Judicial District, (Southcentral Alaska); and
CHARLES BETTISWORTH, serving from the Fourth Judicial District, (Interior Alaska).

Technical assistance and administrative support are provided to the Local Boundary Commission by the Department of Community and Regional Affairs, Municipal and Regional Assistance Division. The Director of the Division of Municipal and Regional Assistance is Ms. Marty Rutherford.

State regulations (19 AAC 10.520 and 19 AAC 10.570) require the Department of Community and Regional Affairs to review such proposals for annexation and to report its findings to the Local Boundary Commission.

The following is the report and recommendation of the Department of Community and Regional Affairs to the Local Boundary Commission regarding the petition for the Legislative Review annexation of territory to the City of Togiak.



Emil Notti, Commissioner
Department of Community
and Regional Affairs

11/15/84

Date

COMMUNITY PROFILE - TOGIAK

POPULATION	545 (7/1/83)
COMMUNITY FACILITIES	Dry goods stores, airtaxi service
PUBLIC FACILITIES	Community recreation center, city jail, city offices, water utility, sewer utility, AVEC electrical utility, solid waste facility
SCHOOLS	Primary and Secondary (REAA)
TRANSPORTATION SYSTEMS	State airfield, winter snow machine trails, streets
MAJOR EMPLOYMENT	Salmon and herring fishing and related processing industry
PROPOSED ANNEXATION	183 Square Miles (Approx.)

INTRODUCTION AND BACKGROUND

The City of Togiak has petitioned for the annexation of the entire Togiak Bay, constituting an annexation of approximately 183 square miles of maritime territory. Togiak was incorporated as a fourth class city in 1969 and reclassified as a second class city in 1972 under the provisions of AS 29.08.040. The City is located at the head of Togiak Bay, at the northeastern corner of Bristol Bay. The July 1, 1983 population figures compiled for the State Revenue Program indicate that the City of Togiak has a year-round population of 545.

In 1982, the City of Togiak petitioned the Local Boundary Commission to annex 51.7 square miles located to the east of the municipal boundaries. Subsequent to conducting a public hearing, review and due consideration of testimony, the petition was denied by the Local Boundary Commission in January, 1983. The Commission's Statement of Decision made the following findings:

- ° Concern that the proposed annexation included land which the neighboring community of Twin Hills might require for future expansion and for municipal purposes should it incorporate. A determination was made that the potential for economic

growth in the area proposed for annexation "should be viewed as economic potential for the community of Twin Hills, not the City of Togiak."

- A reference to a belief on the part of the City of Togiak "that prohibition on the sale and importation of alcoholic beverages must be extended to the cannery area."
- However, the City of Togiak was, (and is) authorized by AS 04.11.496 to restrict the sale and importation of alcoholic beverages within five miles of its municipal boundaries, which includes the cannery area. The Commission accordingly determined that "adequate protection existed to safeguard against the sale of alcoholic beverages in the vicinity of the City."
- That the area proposed for incorporation was occupied on a seasonal basis by transient workers who would not be recipients of municipal services.
- As a result of its findings, the Commission recommended to the First Session of the Thirteenth Legislature that the Legislature establish a service area pursuant to AS 29.03.020 to provide police powers in the area proposed for annexation at that time.

However, no action has been taken on that recommendation.

CURRENT CONDITIONS IN TOGIAK

Togiak experiences the seasonal employment fluctuations commonly associated with Bristol Bay area communities with fisheries based economies. Togiak's economy base is primarily based upon commercial herring and salmon fishing. According to a June, 1984 report prepared by the Barik Regional Aquaculture Association, the Bering Sea Fishermen's Association and LZH Associates entitled "Local Herring Processing in Bristol Bay," 25,000 metric tons of herring were harvested in the Togiak Fishing District in 1983. The value of the pack was estimated at \$10.5 million to the fishermen and in excess of \$30 million to the processors. Since Togiak Bay comprised approximately 44 per cent of the District, value of the herring harvest in Togiak Bay to processors could be expected to total in excess of \$13 million. The Togiak Fishing District herring harvest is almost entirely processed by floating processors that come to Bristol Bay each year to freeze and brine roe herring. Limited quantities of herring are frozen on shore in Togiak and tendered outside the region for processing.

There are two fish processing facilities located within the boundaries of the City of Togiak, the Kachemak Seafoods cannery and Togiak Eskimo Seafoods, recently constructed by the Togiak Village Corporation.

The Togiak Fisheries cannery is situated near the City on the shore opposite the community (at the old Togiak Village site). A portion of the Togiak Fisheries cannery is situated below the mean high tide line and thus would be included in the area proposed for annexation.

A review of permanent employment in Togiak shows that the City has sixteen employees, the State employs three persons, the Bristol Bay Area Health Corporation has five employees, and the Southwest Region REAA provides twenty-three positions. A cooperative grocery store, established in 1970, employs one manager and two clerks. The Togiak Village Corporation operates a store and a lumber supply operation.

Five small stores located in homes in the City have two employees each. This employment, combined with fishing activities in the area, provides the City's economic base.

PROCEEDINGS TO DATE

On March 19, 1984, the Togiak City Council adopted Resolution 84-02 authorizing the current petition for the annexation of approximately 183 square miles. The City of Togiak submitted its completed petition and supporting documentation to the Department on April 2, 1984.

The description of the territory proposed for annexation is as follows:

Starting at the mean high tide line of the southern most tip of Tongue Point on the west side of Togiak Bay; thence moving in a northeasterly direction along a straight line to the mean high tide line of the southern most tip of Rocky Point on the east side of Togiak Bay; thence continuing in a northerly direction along the mean high tide line of the east side of Togiak Bay to the intersection with the east bank of the mouth of the Togiak River; thence continuing in a northerly direction along the east bank of the Togiak River to the intersection with the northern boundary of the protracted Section 6, T13S, R66W, Seward Meridian (S.M.); thence continuing west along

the section line to the intersection with the west bank of the Togiak River; thence continuing in a southerly direction along the west bank of the Togiak River to the intersection with the mean high tide line of the western side of Togiak Bay; thence continuing in a southerly direction along the mean high tide line of the west side of Togiak Bay to the intersection with the mean high tide line of the southern most tip of Tongue Point, the true point of beginning, containing approximately 183 square miles.

The petition was formally determined to be sufficient as to form and content and was accepted by the Department on September 28, 1984. Following the Department's notification that the Commission would consider the petition for submission to the Legislature in 1985, the City gave public notice of the filing of the petition by posting notice in three public places (City Hall, Post Office, and a local "TES" store), as well as in the community of Twin Hills and the Togiak Fisheries Cannery. Notice is also scheduled to be published once in the "Anchorage Daily News".

APPLICATION OF STANDARDS

19 AAC 10.065-080 establishes standards for annexation of contiguous territory to a city. In the following, each of these standards is cited in capital letters, followed immediately by the Department's analysis of how each standard applies in this instance.

1. THE CONTIGUOUS TERRITORY IS TOTALLY SURROUNDED BY THE CITY'S BOUNDARIES.

The territory proposed for annexation by the City of Togiak is located to the east of the current boundaries of the City. The territory is not surrounded by the City.

Therefore, the Department concludes that the first standard is not met.

2. THE LAND IN THE TERRITORY IS WHOLLY OWNED BY THE CITY.

The territory proposed for annexation is not owned by the City. The State of Alaska has ownership of most submerged tidelands within its boundaries. Togiak Fisheries, Inc., has a leasehold interest in a portion of the submerged lands within the area proposed for annexation. The Togiak Fisheries Cannery is partially constructed below the mean

high tide level at its location on the east side of Togiak Bay.

Therefore, the Department concludes that this standard is not met.

3. THE TERRITORY IS URBAN IN CHARACTER.

In making a determination as to whether this standard has been met, 19 AAC 10.070 (d) states that the Local Boundary Commission shall consider "whether the population density of the territory approximates that of the annexing city, whether the population of the territory stems primarily from actual growth of the city beyond its legal boundaries, and whether the property is valuable primarily by reason of its suitability for prospective urban purposes." Togiak Bay has no permanent residents, with the exception of a cannery watchman. However, during the summer months Togiak Bay has seasonal residents living on floating processors or fishing boats.

The territory has only one permanent resident. Therefore, the third standard has not been met.

4. THE TERRITORY IS IN NEED OF MUNICIPAL SERVICES WHICH THE CITY CAN PROVIDE MORE EFFICIENTLY THAN ANOTHER MUNICIPALITY.

The City of Togiak prohibits the sale and importation of alcoholic beverages within its boundaries. For this control to be effective, the City of Togiak maintains that prohibition of the sale and importation of alcoholic beverages must be extended throughout the Togiak Bay area. However, AS 04.11.496 provides that the enactment by a municipality of a prohibition on the sale and importation of alcoholic beverages may allow a municipality to restrict the sale and importation of alcoholic beverages within five miles of the boundaries of the municipality.

The petitioners note that processors and fishing boats using Togiak Bay are free to import alcoholic beverages. They maintain that this has resulted in the consumption of alcoholic beverages by residents of the City. They further maintain that continued flow of alcoholic beverages into the area has a direct relationship to alcohol related crimes and accidents occurring within the City and in the area immediately adjacent to the City.

Statistics compiled by the Alaska State Troopers appear to confirm this. During the period from June 30, 1983 until

July 1, 1984 the following public safety activities were recorded in Togiak.

Alcohol and drug violations	185
Detoxification assists	24
Criminal mischief	13
Driving while intoxicated	5
Domestic violence	30
Assaults	24

Troopers maintain that there is a direct relationship between alcoholic beverage consumption and these criminal activities. There are no other municipalities within the Togiak Bay area. Therefore, the provision of police services in Togiak Bay would be provided by the City of Togiak or the Alaska State Troopers. If Togiak Bay were annexed, it would provide the City with authority to control the importation of alcoholic beverages into a wider area.

However, the authority to enforce the prohibition of the sale and importation of alcoholic beverages does not ensure an ability to enforce the prohibitions. There are currently two village public safety officers employed by the City of Togiak. Even with increased staff, and authority to enforce prohibitions on the entire Togiak Bay, troopers maintain that it is questionable that a reasonably effective mechanism to control alcoholic beverage importation by fishing vessels could be achieved.

In 1982 the City of Togiak petitioned the Local Boundary Commission for the annexation of a portion of Togiak Bay and the Togiak Fisheries Cannery site. The City's petition for that annexation was at least partially in order to exercise control over alcoholic beverage importation into the territory outside of the City's present boundaries and to increase the raw fish tax revenue rebated to the City by the State.

The annexation petition was denied by the Local Boundary Commission because the annexation would have included Twin Hills Village Corporation conveyances and potential 14(c)(3) selections for the possible future City of Twin Hills.

However, the Commission did recognize the need for police powers to be extended into the territory. In accordance with AS 29.03.020, the Commission recommended to the First Session of the Thirteenth Legislature that it create a special public safety service area in the Togiak Bay area

to be administered by the City of Togiak. This statute reads as follows:

Sec. 29.03.020. Service areas. Allowing for maximum local participation, the legislature may establish, alter, or abolish service areas within the unorganized borough to provide special services, which may include but are not limited to schools, utilities, land use regulations and fire protection. A new service area may not be established if the new service can be provided by an existing service area, by incorporation as a city, or by annexation to a city.

The Legislature did not act on the Commission's recommendation for the creation of the public safety service area in the Togiak Bay area. Consequently, the City continues to lack legal authority to address this problem.

It is presently not possible for the City of Togiak to control the importation of alcoholic beverages into Togiak Bay. According to Alaska State Troopers, it is doubtful that even with annexation, such control could effectively be enforced. If the City is allowed to annex the Togiak Bay area it would provide the City with authority to control the importation of alcoholic beverages, but not with the capability to effectively enforce its authority.

It is the Department's finding that the fourth standard has not been met.

5. **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.**

The community of Togiak has grown from a population of 71 in 1930, to 545 in 1983. This growth has largely been the result of fisheries development in the area. Rapid growth of the area's herring fishery has occurred since 1977.

The City argues that it should have the authority to regulate the impact of the fisheries industry upon the community. The City maintains that to control impact of this growth, it should exercise some modicum of authority over activities of the seasonal population which resides outside of the City boundaries but socially and economically impact the City's residents. The petitioner

maintains that control could be best attained through the annexation of Togiak Bay. It should be noted, however, that regardless of the municipality's authority to control certain activities within municipal boundaries, it would not acquire control of the harvesting of fisheries resources in Togiak Bay if the annexation is approved.

The Department feels that there exists a likelihood of economic growth and development within the territory proposed for annexation. The Department finds that the fifth standard has been met.

6. THE HEALTH, WELFARE OR SAFETY OF CITY RESIDENTS IS ENDANGERED BY CONDITIONS EXISTING OR DEVELOPING IN THE TERRITORY AND ANNEXATION WILL ENABLE THE CITY TO REMOVE OR RELIEVE THESE CONDITIONS.

As previously stated, the City maintains that it is necessary to annex this area to ensure the safety of its citizens.

The City of Togiak prohibits the importation and sale of alcohol within five miles of the municipal boundaries, although alcohol can legally be transported by boat into areas of Togiak Bay which are more than five miles outside of the Togiak municipal boundaries.

The Department finds, however, that the City's ability to enforce its prohibition of the sale and importation of alcoholic beverages would not likely be enhanced significantly by annexation of Togiak Bay.

Difficulties inherent in policing cargoes of numerous fishing vessels would remain, regardless of the City's legal authority to restrict importation of alcoholic beverages.

The Department finds the sixth standard has not been met.

7. THE EXTENSION INTO THE TERRITORY OF CITY SERVICES OR FACILITIES IS NECESSARY TO ENABLE THE CITY TO PROVIDE ADEQUATE SERVICE TO CITY RESIDENTS, AND IT IS IMPOSSIBLE OR IMPRACTICAL FOR THE CITY TO EXTEND THE FACILITIES OR SERVICES UNLESS THE TERRITORY IS WITHIN THE CITY'S BOUNDARIES.

The arguments presented in the discussion of the sixth standard are applicable to the seventh standard.

For the adequate protection of the Togiak residents working in the area proposed for annexation and for the enforcement of the alcohol importation prohibition to be effective, the petitioner maintains that municipal boundaries must be extended to include Togiak Bay. The City has authority to extend its control over the importation of alcoholic beverages five miles beyond its municipal boundaries, yet statistics on alcohol related crimes reflect that it has not been successful in enforcing this authority. Extension of services over a much larger area are unlikely to effectively increase the ability of the City to enforce its prohibition of alcohol into the area.

Therefore, the Department finds that the seventh standard has not been met.

8. 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, WHETHER CITY SERVICES ARE RENDERED OR RECEIVED INSIDE OR OUTSIDE THE CITY.

If the annexation of Togiak Bay by the City of Togiak is approved it can be expected to result in a significant increase in the raw fish tax revenue rebated to the City by the State of Alaska Department of Revenue. According to the Alaska Department of Revenue, the City of Togiak received \$57,701 in raw fish tax revenues for fiscal year 1984. The Alaska Department of Revenue is not able to precisely project an estimate of additional raw fish tax revenues to be anticipated as a result of the proposed annexation of Togiak Bay.

However, based on the value of the 1983 herring harvest to processors referenced in the introduction, raw fish taxes rebated to the City as a result of the proposed annexation could be expected to total as high as \$250,000 per year. (This projection is based upon information provided by David Ryals of the Alaska Department of Revenue and is based upon the 1983 value of the herring harvest alone.) The City of Togiak does not impose a property tax.

Only seasonal workers reside in the area proposed for annexation. However, since these seasonal workers do not reside within the City of Togiak it is doubtful that they receive any direct services from the City.

The Department finds that the eighth standard has not been met.

9. THE ANNEXATION IS OTHERWISE NECESSARY TO ACCOMPLISH A VALID PUBLIC PURPOSE.

The Department is not aware of any public purpose to be accomplished through the annexation of this territory which has not been covered by the discussion of the standards for an annexation. Therefore the ninth standard is not met.

SUMMARY AND RECOMMENDATION

The Department finds that the City of Togiak's annexation petition does not adequately justify the proposed annexation. Sufficient evidence does not exist that the proposed annexation will make it possible for the City to exercise its powers of law enforcement in the area proposed for annexation. The following reviews the Department's findings for the nine standards:

- ° The contiguous territory is not totally surrounded by the City's boundaries.
- ° The territory proposed for annexation is not wholly owned by the City.
- ° Togiak Bay is not urban in character.
- ° The territory is not in need of municipal services which the City can provide more effectively than another municipality even though there are no other municipalities in the territory.
- ° There is a reasonable expectation that the herring and salmon fisheries will continue to grow and develop within Togiak Bay and that annexation of the Bay would enable the City to exert a larger degree influence upon that development.
- ° The health, welfare, and safety of City residents is endangered by the City's inability to effectively enforce its existing prohibition of the importation of alcoholic beverages into Togiak Bay. It is not assumed that the proposed annexation can reasonably be expected to effectively alleviate the alcohol abuse problems confronted by the City.
- ° The extension into Togiak Bay of City public safety services would not necessarily enable the City to better provide these services to its residents. If the City does acquire authority to extend these services into the Bay it

is questionable whether the City can enforce its authority. The City does not propose to provide any services other than public safety in the area proposed for annexation.

- ° Residents or property owners within Togiak Bay do not receive and may not reasonably be expected to receive, directly or indirectly, the benefit of City Government without commensurate property tax contributions, whether City services are rendered or received inside or outside the City.
- ° No other public purpose will evidently be accomplished by the annexation of Togiak Bay.

While the Department finds that future growth and development will likely occur in the area proposed for annexation, this is the only standard for annexation which we feel has been met. Further, it has not been adequately demonstrated that the proposed extension of the jurisdictional boundaries of the City of Togiak is necessary.

Therefore, the Department recommends that the petition for the annexation of territory to the City of Togiak be denied. However, the Department requests that the Local Boundary Commission consider recommending to the Legislature the possibility of amending legislation governing raw fish taxes to allow municipalities impacted by fisheries development to share in revenues generated in unincorporated areas in their vicinities.

CHILINGOK

O K W I N

Y



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CITY OF TOGIAK
P.O. Box 99
Togiak, Alaska 99678

December 7, 1984

Adelheid Herrmann
1024 W 6th
Anchorage, Alaska 99501

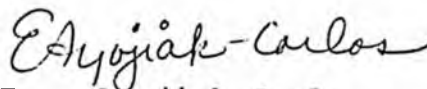
Dear Representative Herrmann,

The City was surprised to read the negative report from the Department of Community and Regional Affairs on the annexation of Togiak Bay. It appears to have been written by someone who is not familiar with the community and the territory. The LBC made a commitment to Togiak to assist us in our efforts at annexation. The current report seems to not recognize that commitment. Also, it seems to be in conflict with the Sheffield Administration's commitment to rural Alaska's efforts at self-determination.

Enclosed for your review is a response to the Department report. A copy will be available for each LBC member at the public hearing. We have not sent copies to the LBC members as there are changes being made in the commission and we do not know who will be in Togiak for the hearing December 16th.

Thank you for reading this response.

Sincerely,



Emma Ayojiak-Carlos
Mayor

Enclosure
bds

Response to the Department of Community and Regional Affairs Report to the Local Boundary Commission on the petition by the City of Togiak to annex Togiak Bay.

Togiak is the only incorporated municipality on Togiak Bay. In fact, it is the only community located on the bank of the Bay; the other community in the area, Twin Hills, is located away from the Bay and further inland. The residents of Togiak have stated and the local boundary commission has recognized the need for police powers to be extended into the Bay area. With current revenues and existing staff, Togiak is unable to enforce its alcohol control ordinance (or other city ordinances) in the Bay area. The City of Togiak recognizes its current inability to enforce its ordinances in the Bay area and is not supportive of creation of a specific service area because they would not receive the financial assistance to increase public safety staff.

Residents state that processors often pay bonuses for direct delivery of fish with alcohol. This is in violation of current laws but with current staff the law is unenforceable. One-half of the alcohol related patients seen by the Physicians Assistant in a six week period during the summer of 1984 were non-resident fishermen. Alcohol impacts the City in significant ways.

The statistics cited in the Department report indicate 185 arrests for alcohol or drug violations. This is more than three times the arrests for all other alcohol related crimes combined. Extrapolating these figures as the FBI does to incidents per 100,000 population, this indicates that more than one-third of the population would have committed an alcohol or drug violation. This graphically illustrates the severity of the problem and clearly reveals the current law is being enforced in the community of Togiak.

The attitude of the current report seems to be that the City

has been, is, and always will be incapable of enforcement in the Bay area. All comments appear to substantiate that belief. The report also has incorrect information regarding public safety staff.

It is not reasonable for the City to attempt to enforce its current alcohol ban in the Bay area as the law does not give the City the authority to enforce its alcohol importation restriction outside of the city boundaries.

The request to assume local control of the drug and alcohol violations in the Bay area is very understandable and appropriate. If Anchorage evidenced such a sever problem, over 100,000 people in Anchorage would be involved! One can imagine the steps Anchorage would take to gain control, and less concern from any community should not be expected.

In addition to allowing enforcement of local ordinances in the Bay area, the increased share of raw fish tax will enable the city to hire additional trained public safety officers. These additional funds will enable the city to expand overall public safety activities. The council is interested in search and rescue efforts as well as the expansion of other activities and services.

AS 04.11.496 does not prohibit importation of alcohol outside of the city boundaries. It prohibits the Alcohol Beverage Control Board from issuing, renewing or transferring licenses within the 5 mile area:

Sec. 04.11.496. PROHIBITION OF SALE AND IMPORTATION OF ALCOHOLIC BEVERAGES.

(b) If a majority of the voters vote "yes" on the question set out in (a) of this section, a person, beginning on the first day of the month following certification of the results of the election, may not knowingly send, transport, or bring alcoholic beverages into the municipality or established village.

The board shall be notified immediately after certification of the results of the election and thereafter may not issue, renew, or transfer between holders or locations a license for licensed premises located within the boundaries of the municipality and within unincorporated areas within five miles of the boundaries of the municipality or within the perimeter of the established village.

As there are no licensed establishments, this provision does not help Togiak alleviate its problems.

The City recognizes that perfect enforcement most likely will not occur. However, the current force of three City Police Officers and two Village Public Safety Officers will be able to systematically begin to enforce the laws if annexation is permitted. The report erroneously states the City has only two Public Safety Officers. There is also one individual who works for Public Safety during the summer on a part-time basis from GoodNews Bay. It is anticipated that additional trained officers will be hired on a part-time basis during the summer months at a minimum if the annexation is approved. Also, with the increase in revenues, a search and rescue boat can be purchased and staffed. Doing nothing because doing something may be less than perfect is not an acceptable choice.

AS 29.03.20 states that the legislature may not establish a service area if the service can be provided by annexation to an existing city. Public Safety services can be provided by the City of Togiak, as Togiak is willing to assume responsibility for enforcement. The financial capability to increase its governmental services and facilities will result from this annexation. Creating a service area or changing current law will not respond to the needs of the city.

Togiak believes the LBC previously made a commitment to respond to the needs of the community should the Legislature not act upon the request to create a special service area. It should also be noted that the Legislature has never created a special

service area and has no rules or procedures to allow them to act in such a manner even though statutorily they have the authority. School districts and coastal service areas which are created on a statewide basis are the only evidence of the legislature utilizing its authority in this manner. The legislature would need to develop procedures to enable them to act on this request. It is doubtful that the legislature has sufficient interest in this matter to take the time and effort to respond.

We believe standard no. 4: "The territory is in need of municipal services which the City can provide more efficiently than another municipality." has been met.

It is predicted that both the herring and salmon industry will continue to grow. This growth will bring with it increased problems unless this city is allowed to expand its public safety efforts to enforce their local ordinances. However, as the fishing industry grows the city will be able to share in the raw fish tax which will significantly increase city revenues at no impact to the tax payers.

As stated in the Department report, fisheries is an area of great economic activity. Togiak Bay area has great potential for developing the economy of the City. Togiak has repeatedly stated it desires to provide the infrastructure necessary to encourage development. With the increased tax base the City will be able to further its economic development activities.

The Bristol Bay Coastal Management Program recognizes Togiak fishing grounds (essentially Togiak Bay) as being the largest herring fishery in the State, and the Bay is being utilized by all five species of Pacific salmon. "The Salmon, herring - particularly roe-on-kelp - and waterfowl, along with marine mammals are all important to the thriving subsistence economy

of Togiak..."

ISER recently compiled a report on Natives in Alaska's Commercial Fisheries which states that nearly 40 percent of the 700 Native owned limited entry permits which were sold or transferred to non-natives were for Bristol Bay. Further, 20 percent of the original Native owned limited entry permits for Bristol Bay have been transferred to non-natives. These transfers indicate a growing population of non-resident fishermen.

We believe standard no. 5: "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" has been met.

The health, welfare, and safety of both residents and non-residents are endangered by the selling and distribution of alcohol. As not all fishing boats are involved in the alcohol problem it is relatively easy for the city to recognize those persons and vessels that are creating the problem. Selective checking and judicious enforcement will rapidly reduce the most significant problems, and prevent others from occurring. We believe Standard no. 6: "The health, welfare or safety of city residents is endangered by conditions existing or developing in the territory and annexation will enable the city to remove or relieve these conditions" has been met.

All visitors to the City of Togiak receive direct benefits of potable water, sewer, solid waste disposal, police and fire protection. Visitors are also eligible to receive benefits from the clinic. These are very direct benefits which are available to residents and visitors alike.

Also, as the area is served by barge, the City may provide transportation services, harbors, docks, etc." The City is currently involved in a major erosion control project which

may impact barge services in a positive manner.

We believe standards no. 7 and 8 have been met.

No.7: "The extension into the territory of city services or facilities is necessary to enable the city to provide adequate service to city residents, and it is impossible or impractical for the city to extend the facilities or services unless the territory is within the city's boundaries."

No. 8: "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, whether city services are rendered or received inside or outside the city."

As the area requested in the annexation petition is all water area, it is not understood how this area can contain any residents. The City of Togiak has not reviewed the lease agreement of Togiak Fisheries so it is unable to respond to the statement concerning persons residing in the area. The City understands however, that the residence for the watchman at Togiak Fisheries is on land away from the bank of the Bay. Therefore, the area to be annexed should not contain any residents.

The City recognizes the need to control activities and assume responsibility for its residents. The City will have the financial capability to increase its infrastructure to enforce its responsibilities through annexation of Togiak Bay. Only through annexation will the City be able to assume its rightful local control.

Self determination has been discussed and supported by the Sheffield administration. It is confusing why the Department of Community and Regional Affairs has taken a position of non-support in this request. The Department's position appears

to be in conflict with the Administration's policy.

The current recommendation to amend legislation governing raw fish tax creates in effect, another jurisdictional boundary which could not be controlled, or the proceeds adequately distributed. The legislature should not be requested to divide up the fishing area to distribute proceeds on an arbitrary basis to select communities.

Togiak is willing to assume responsibility for the Bay territory because the financial capability to increase services is present.

SUMMARY

Togiak Bay is in need of public safety services as previously recognized by the LBC. The City of Togiak is the only municipality in the area which can provide these services.

There is every expectation that both the salmon and herring fisheries will continue to develop with increasing numbers of non-resident fisherment participating. Annexation of the Bay would enable the City to exert a greater degree of influence upon that development.

The Health, welfare, and safety of city residents is endangered by the City's inability to enforce its importation prohibition outside of its boundaries (AS 04.11.496 prohibits sales and transfers of licenses within five miles. It does not prohibit importation in the same area).

The additional funds from shared raw fish tax will enable the City to hire additional equipment and trained staff to carry out its increased responsibilities.

There are no residents in the area. Services in Togiak are available to residents and non-residents alike.

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

BILL SHEFFIELD, GOVERNOR

REPLY TO:

1031 W 4th AVENUE
SUITE 200
ANCHORAGE, ALASKA 99501
PHONE: (907) 276-3550

1st NATIONAL CENTER
100 CUSHMAN ST.
SUITE 400
FAIRBANKS, ALASKA 99701
PHONE: (907) 452-1568

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

February 20, 1985

Hon. Edna DeVries
Alaska State Senate
Pouch V
Juneau, AK 99811

Re: Wise v. Local Boundary Commis-
sion (proposed annexation)

Dear Senator Devries:

After attending the February 19 meeting of the joint House and Senate Community and Regional Affairs committees on the Fairbanks annexation proposed by the Local Boundary Commission (the LBC), I felt it was important to provide you with a copy of the commission's recent motion regarding the court's stay of its decision. A stay is authorized under the Appellate Rules of Procedure to prevent enforcement of a judgment while it is being appealed. Usually, a stay is granted as a matter of course upon filing of a supersedeas bond. Appellate Rule 603(a)(2).

The position taken in the attached motion asserts that there is no judgment the enforcement of which can be stayed, until the time for legislative review passes. As you know, an annexation does not become effective until 45 days after the LBC proposes it to the legislature, and only if the two houses of the legislature do not concur in a disapproving resolution. Alaska Const. art. X, § 12; AS 44.47.583.

In requesting a stay, Mr. Hackett, counsel for Mr. Wise, did not mention the applicable constitutional or statutory provisions pertaining to the effective date of this annexation. I have filed a motion to have the court set aside its stay, because these provisions were overlooked. At the least, the stay should not be interpreted to interfere with the constitutionally-established period of legislative review. Through the teleconference network, Mr. Hackett himself testified that he was unsure what the stay meant, that it was a red herring as far as the legislature was concerned, and that the legislature should not consider the fact that an appeal has been filed in conducting its review. In the latter comments, I concur.

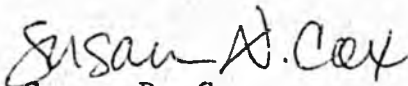
Hon. Edna DeVries
Alaska State Senate
Re: Proposed Fairbanks annexation

February 20, 1985
Page #2

I would be happy to provide your committee with any further information on the status of the Fairbanks appeal. If you would like additional copies for committee members of the enclosed motion, or the Motion to Dismiss Appeal which I provided you after the February 19 hearing, please contact me.

Sincerely yours,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By: 
Susan D. Cox
Assistant Attorney General

SDC/pjg

cc: Hon. Peter Goll
House of Representatives

James Hackett, Esq.

RECEIVED

BILL SHEFFIELD, GOVERNOR

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE CITY ATTORNEY

OFFICE OF THE COMMISSIONER

POUCH B
JUNEAU, ALASKA 99811
PHONE (907) 465-4700

949 E 36TH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99505
PHONE (907) 563-1073

REPORT AND RECOMMENDATION TO THE ALASKA LOCAL
BOUNDARY COMMISSION ON THE PETITION BY THE CITY
OF FAIRBANKS TO ANNEX APPROXIMATELY 117 ACRES



PREFACE

Annexations are accomplished under the provisions of State laws and administrative regulations. The Local Boundary Commission reviews and acts on all petitions in accordance with Section 29.68.010 of the Alaska Statutes (AS 29.68.010) and Title 19, Chapter 10, Sections 065-090 and 450-620 of the Alaska Administrative Code (19 AAC 10.065-090 and 19 AAC 10.450-620).

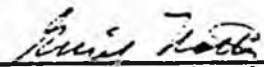
The Alaska Local Boundary Commission consists of five members, one from each of the four Judicial Districts of the state, plus one member who serves at large. Commission members serve without compensation at the pleasure of the Governor. Current members of the Commission are:

SHEILA GALLAGHER, Chairman, serving at large;
JOSEPHINE ANDERSON, serving from the First Judicial District, (Southeast Alaska);
BERT GREIST, serving from the Second Judicial District, (Northwest Alaska);
DAVE HANSON, serving from the Third Judicial District, (Southcentral Alaska); and
CHARLES BETTISWORTH, serving from the Fourth Judicial District, (Interior Alaska).

Technical assistance and administrative support are provided to the Local Boundary Commission by the Department of Community and Regional Affairs, Municipal and Regional Assistance Division. The Director of the Division of Municipal and Regional Assistance is Ms. Marty Rutherford.

State regulations (19 AAC 10.520 and 19 AAC 10.570) require the Department of Community and Regional Affairs to review such proposals for annexation and to report its findings to the Local Boundary Commission.

The following is the report and recommendation of the Department of Community and Regional Affairs to the Local Boundary Commission regarding the petition for the Legislative Review annexation of territory to the City of Fairbanks.



Emil Notti, Commissioner
Department of Community
and Regional Affairs

11/14/80

Date

COMMUNITY PROFILE - FAIRBANKS

POPULATION: 27,103 (7/1/83)

COMMUNITY FACILITIES: Fairbanks has a complete range of community infrastructure facilities

CITY SERVICES: Water, sewer, electricity, steam, police, fire, emergency medical, public works

SCHOOLS: Primary, secondary (North Star Borough), University of Alaska

TRANSPORTATION SYSTEMS: Railroad, highways, roads, streets, river barges, air service

MAJOR EMPLOYMENT: Military, transportation, service industries, government, construction, mining

PROPOSED ANNEXATION: 117 acres

INTRODUCTION AND BACKGROUND

The City of Fairbanks, a home rule municipality, has petitioned the State of Alaska for the annexation of approximately 117 acres with a present population of 96, (based upon a census completed by the Fairbanks North Star Borough in September, 1984).

Fairbanks was incorporated in 1903 and has evolved into the service, trade and transportation hub of Interior Alaska. The July 1, 1983 population figure compiled for the State Revenue Program indicates that the City of Fairbanks has a population of 27,103. Fairbanks is located within the Fairbanks North Star Borough, which holds the second largest population of any incorporated area within Alaska (65,311).

Recent developments in the area have included a revival of the local mining industry, substantial addition of personnel at Eielson Air Force Base, and the continued expansion of Fairbanks' role of providing major support to oil development in Northern Alaska.

CURRENT CONDITIONS

A 142 unit condominium development is under construction on a portion of the approximately 117 acres proposed for annexation by the City of Fairbanks. The City of Fairbanks and the developer, Wise Enterprises, Inc., state that the current construction is the first phase of a development project which is planned to eventually consist of 550 interconnected townhouse units.

The area proposed for annexation currently receives fire and emergency medical services from the Fairbanks North Star Borough's University Service Area. The City of Fairbanks maintains that such services could be provided more efficiently by the City.

Information submitted by the City of Fairbanks references a concern expressed by the local Southwest Homeowners Association that traffic generated as a result of the housing development in the area proposed for annexation will have a detrimental impact upon their neighborhood, which is within the existing boundaries of the City of Fairbanks. Representatives of the Homeowners Association have requested that the City of Fairbanks take action to block 19th Avenue, (the current Fairbanks municipal boundary and a dedicated street which has not been constructed), to force traffic from the housing development to bypass their neighborhood. The Fairbanks City Council could more readily fulfill this request if the proposed annexation is effected.

Competing applications have been filed with the Alaska Public Utilities Commission (APUC) by the Fairbanks Municipal Utility System (FMUS) and the College Utility Corporation (CUC) to provide water and sewer service to the area sought for annexation. APUC action on both applications is currently pending. Legal counsel for the College Utilities Corporation has written to Department staff requesting that the Local Boundary Commission take into account the pending water and sewer service issue, stating that the proposed annexation by the City of Fairbanks "is designed primarily to defeat the jurisdiction of the APUC over FMUS' and CUC's competing applications." The APUC has scheduled a hearing on the matter for January 15, 1985.

PROCEEDINGS TO DATE

On August 25, 1984, the Fairbanks City Council adopted Ordinance Number 4351, authorizing the current petition for the annexation of approximately 117 acres. The City submitted its petition and supporting documentation to the Department on September 17, 1984. The petition was determined to be sufficient as to form and content and was accepted by the Department on October 19, 1984.

APPLICATION OF STANDARDS

The Alaska Administrative Code (19 AAC 10.065-.090) establishes standards for annexation of territory to a city. Each of these standards is cited below in capital letters, followed immediately by the Department's analysis of how each standard applies in this instance.

1. THE CONTIGUOUS TERRITORY IS TOTALLY SURROUNDED BY THE CITY BOUNDARIES.

The territory proposed for annexation by the City of Fairbanks is adjacent to the City's boundaries. As such, it is not surrounded by the City's boundaries. Therefore, the first standard is not met.

2. THE LAND IN THE TERRITORY IS WHOLLY OWNED BY THE CITY.

The territory proposed for annexation is privately owned. Therefore, the second standard is not met.

3. THE TERRITORY IS URBAN IN CHARACTER.

The Alaska Administrative Code, (19 AAC 10.070.(d)) states, "In determining whether territory is urban in character for the purposes of (a) (3) of this section, the commission will, in its discretion and without limitation, consider whether the property is platted or held for sale for

residential or commercial purposes, whether the population density of the territory approximates that of the annexing city, whether the population of the territory stems primarily from actual growth of the city beyond its legal boundaries, and whether the property is valuable primarily by reason of its suitability for prospective urban purposes."

The territory proposed for annexation by the City of Fairbanks encompasses approximately 117 acres with a population of 96 residents, resulting in a current population density of approximately 525 residents per square mile.

However, the population density of the territory proposed for annexation is expected to increase both rapidly and significantly upon completion of a 142 unit condominium project which is currently under construction. Construction of an additional 408 units is also planned by the same developer, (Wise Enterprises, Inc.). This development will likely result in a much greater degree of urbanization in the foreseeable future. Assuming an occupancy rate of two individuals per unit, the 550 units would increase the population of the territory proposed for incorporation by 1,100. Under such circumstances, the population density of the area would equal 6,542 persons per square mile. The population density within the present boundaries of the City of Fairbanks is approximately 824 persons per square mile.

As previously stated, the area proposed for annexation is directly adjacent to the existing boundaries of the City of Fairbanks, and as such may be considered to be growth of the City beyond its legal boundaries.

The Department finds that the territory is urban in character, and the third standard is met.

4. THE TERRITORY IS IN NEED OF MUNICIPAL SERVICES WHICH THE CITY CAN PROVIDE MORE EFFICIENTLY THAN ANOTHER MUNICIPALITY.

Issues surrounding service delivery center principally upon the provision of fire and emergency medical service and the provision of water and sewer service.

Fire and Emergency Medical Service

The City of Fairbanks maintains that its Fire Department is in a position to provide better fire and emergency medical service (EMS) to the area proposed for annexation than is currently provided by the Fairbanks North Star Borough's University Fire Service Area. The City of Fairbanks supports its argument with an assertion by the staff of the City's Fire Department that response travel distance for City fire and EMS equipment is currently 20 to 25 per cent less than that of the Borough's University Fire Service Area.

This statement is disputed by Emergency Services staff of the North Star Borough. Borough staff maintain that response time is approximately the same for Borough fire and EMS staff as it is for City personnel.

The City of Fairbanks' Fire Department has stated that:

- A. A fire substation planned by the City of Fairbanks for the area would reduce response distances by fifty to ninety per cent in comparison to the current distance from the Borough's University Fire Service Area facility.
- B. The City of Fairbanks' EMS also provides paramedic level service, while the University Service Area provides a lesser emergency medical technician level of service.
- C. Benefits of faster fire response time provided by the City would accrue to residents in the area proposed for annexation in the form of a significant improvement in fire insurance ratings for the area and consequent fire insurance rate reductions.
- D. As a result of the EMS scope and quality offered by the City of Fairbanks, residents of the area would benefit from the skilled attention of more personnel with higher levels of expertise than would be the case should the area not be annexed. According to the City's Assistant Fire Chief, this could be "critical in managing industrial accidents and life threatening events such as heart attacks and strokes, because five to seven medical personnel are needed for their effective and expeditious control."

Water and Sewer Service

As mentioned previously, the housing development currently underway in the territory proposed for annexation has generated an immediate demand for expanded water and sewer utilities service. The City of Fairbanks has applied to the Alaska Public Utilities Commission to extend the service area for the Fairbanks Municipal Water and Sewer Utility to this and adjacent areas. However, the College Utilities Corporation has a competing application pending before the APUC. Public utilities are prohibited by AS 42.05.221 from operating a utility without first having obtained an APUC Certificate of Public Convenience and Necessity.

Section 29.48.040 of Alaska Statutes provides that "A municipality owning or operating utilities may extend service to adjacent areas outside its municipal limits. For that purpose the utility may acquire, maintain, and operate utility facilities together with necessary real property interests and real property outside its limits." However, Section 12.106.1

of the Code of the City of Fairbanks requires that, "If [territory is] not within the corporate limits of the city, an abutting property owner can connect [to the City's water system] if he agrees to annexation at the earliest practical time, and agrees to pay applicable present or future assessment requirements."

It is not the role of the Department to make a recommendation as to which utility can more effectively provide water and sewer service to the territory in question. The Alaska Public Utilities Commission will render an independent decision on this issue regardless of Local Boundary Commission and/or Legislative approval of the proposed annexation.

In spite of the issues raised concerning provision of sewer and water utility service, the Department believes that sufficient demand for other municipal services has been demonstrated and that these services can best be provided by the City of Fairbanks. The Department finds that the fourth standard is met.

5. 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.

As previously stated, a 142 unit townhouse condominium complex is currently under construction within the territory proposed for annexation and another 408 units are planned. This development will utilize much of the remaining vacant land within the territory proposed for annexation.

The Department finds that this territory is undergoing considerable development and that it should be within the City's boundaries to allow the City to exercise some measure of control over that development. The Department finds that the fifth standard is met.

6. THE HEALTH, WELFARE OR SAFETY OF CITY RESIDENTS IS ENDANGERED BY CONDITIONS EXISTING OR DEVELOPING IN THE TERRITORY AND ANNEXATION WILL ENABLE THE CITY TO REMOVE OR RELIEVE THESE CONDITIONS.

A spokesman for the Southwest Homeowners Association, representing the neighborhood immediately north of the territory proposed for annexation, has expressed concern that traffic from the development would impact their neighborhood. The Homeowners Association has asked that Nineteenth Avenue, currently the City's boundary and a dedicated street which has not yet been constructed, remain unconstructed, or that if it is constructed that it be blocked to force traffic from the condominium development to use alternate routes, (Peger Road or

University Avenue), rather than pass through the neighborhood. According to the Fairbanks City Attorney, this issue could currently be addressed only through joint action by the City of Fairbanks and the North Star Borough, since the boundary of the two municipalities runs down the middle of Nineteenth Avenue.

The Department finds that welfare and safety concerns expressed by the Southwest Homeowners Association are justified. Annexation of this territory would enable the City to more effectively address these concerns. The Department finds that the sixth standard is met.

7. THE EXTENSION INTO THE TERRITORY OF CITY SERVICES OR FACILITIES IS NECESSARY TO ENABLE THE CITY TO PROVIDE ADEQUATE SERVICE TO CITY RESIDENTS, AND IT IS IMPOSSIBLE OR IMPRACTICAL FOR THE CITY TO EXTEND THE FACILITIES OR SERVICES UNLESS THE TERRITORY IS WITHIN THE CITY'S BOUNDARIES.

As has been stated, the City of Fairbanks' Fire Department maintains that it is in a position to provide better fire and emergency medical service to the area proposed for annexation than is currently provided by the Fairbanks North Star Borough's University Fire Service Area. This position is not consistent with the stated belief of Borough personnel, yet both City and Borough staff agree that the City's current fire insurance rating is more favorable than that of the Borough's University Fire Service Area.

The provision of water and sewer service to the territory is an issue which will be decided by the Alaska Public Utilities Commission. Representatives of the College Utility Corporation have spoken and written to Department staff expressing objections to the proposed annexation. Based upon our discussions, we anticipate that an answering brief opposing the proposed annexation will be introduced by the College Utility Corporation. As previously mentioned, however, Alaska Statutes do not prohibit a municipal utility from serving territory outside the municipality's boundaries. Neither is the College Utility Corporation prohibited by Alaska Statutes from provision of service to the area should the annexation be effected. However, the Code of the City of Fairbanks dictates that inclusion within the City's boundaries is a requirement for receipt of Fairbanks Municipal Water Utility service.

Concerns raised by the Southwest Homeowners Association concerning control of the impact of traffic generated by development in the area proposed for annexation could be better addressed if the area is annexed. The ability of the City of Fairbanks to address this issue would be limited should the annexation not be effected. The Department finds that the seventh standard is met.

8. 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, WHETHER CITY SERVICES ARE RENDERED OR RECEIVED INSIDE OR OUTSIDE THE CITY.

It is probable that present and future residents of the territory proposed for annexation do presently and will continue to benefit directly and indirectly from services provided by the City of Fairbanks. Currently the City has a real property tax rate of 1.8 mills and does not levy a tax on personal property. The City of Fairbanks imposes a sales tax of 3 percent on sales made within the City; however, collection of this tax has been stayed since July 1, 1981.

It is also noteworthy that an arrangement is currently in effect whereby the City of Fairbanks provides a degree of EMS to the area in conjunction with the North Star Borough's University Fire Service Area. This provision of service is based upon an arrangement wherein both entities respond to emergencies within the area proposed for annexation. Additionally, since residents of the area proposed for annexation live immediately adjacent to the City of Fairbanks, it is assumed that they utilize certain City services. These services are likely to include City maintained streets and cultural activities.

The Department finds that the eighth standard is met.

9. THE ANNEXATION IS OTHERWISE NECESSARY TO ACCOMPLISH A VALID PUBLIC PURPOSE.

Residents of the territory proposed for annexation may not participate in the democratic process which guides the municipality's direction and growth. As long as these individuals reside outside the City's boundaries, they are precluded from holding or voting for candidates for seats on the Fairbanks City Council or on City referenda or initiatives. Annexation would extend such opportunities to these individuals.

Therefore, the Department finds that, to the extent mentioned above, the ninth standard for annexation is met.

RECOMMENDATIONS

The Department finds that the petition submitted by City of Fairbanks adequately justifies the proposed annexation. Sufficient evidence exists that the proposed annexation will make it possible for the City to provide its fire protection and emergency medical services in the area

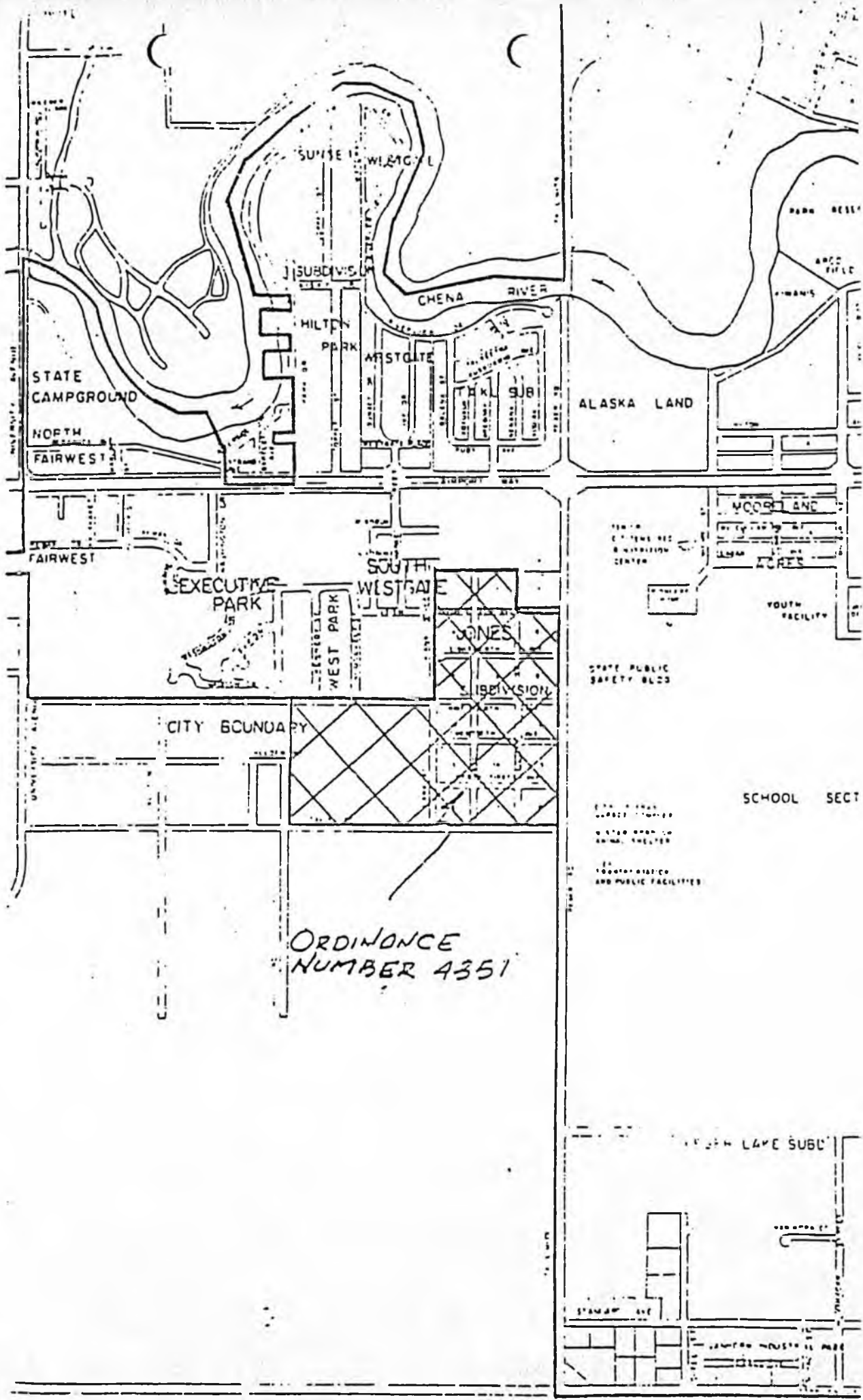
proposed for annexation. The proposed annexation would also allow the City of Fairbanks to exercise a necessary level of control of the impact of rapid growth of the area proposed for annexation upon a neighborhood already within the Fairbanks' City boundaries. The following reviews the Department's findings for the nine standards:

- The contiguous territory is not totally surrounded by the City's boundaries.
- The territory proposed for annexation is not wholly owned by the City.
- The area is urban in character.
- The territory is in need of municipal services which the City can provide more effectively than another municipality.
- There is a virtual certainty that the population of the area will grow and develop in the immediate future and that annexation of the territory will enable the City to plan for and control that development.
- The health, welfare, and safety of City residents is endangered by the City's inability to effectively control impacts of anticipated increases in traffic which will be generated by development of numerous new housing units being constructed in the territory proposed for annexation.
- The extension of City fire and emergency medical services into the area proposed for annexation would enable the City to better provide these services to area residents in a more efficient manner. This assertion is supported by the fire insurance rating of the City of Fairbanks vis-a-vis that of the area served by the North Star Borough's University Fire Service Area. Given the additional tax base which the City would acquire should the annexation be effected, the City of Fairbanks could more readily afford to develop a fire substation planned for the area.
- Residents and property owners within the area proposed for annexation receive and may reasonably be expected to continue to receive, directly and indirectly, the benefit of City government without commensurate property tax contributions. An arrangement is currently in effect whereby the City of Fairbanks provides EMS to the area in conjunction with the North Star Borough's University Fire Service Area. Additionally, since residents of the area proposed for annexation live immediately adjacent to the City of Fairbanks, it is assumed that they utilize certain City services. These services include City maintained streets and cultural activities.

- Residents of the area, while evidently impacted by activities occurring within the City of Fairbanks, do not currently have the ability to directly participate in City of Fairbanks' local elections. Annexation of the territory would afford them this opportunity.
- The Alaska Administrative Code (19 AAC 10.090 (a)) requires that "for the annexation by a city of territory of another municipality, the Local Boundary Commission will determine the method by which assets and liabilities are to be distributed between the city and the municipality formerly providing services. In determining the distribution of liabilities and assets, the commission will, in its discretion, approve an equitable agreement between the municipalities affected but will independently review the proposed agreement."
- The Fairbanks North Star Borough Attorney has informed the Department that there are no assets or liabilities to be distributed in the area proposed for annexation. He also verbally stated that the Borough has no objections to the proposed annexation.

Therefore, the Department recommends that the petition for the annexation of territory to the City of Fairbanks be approved as submitted.

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Togiak

P.O. Box 99
Togiak, Alaska 99678

Second Class City

Phone: (907) 493-5820, or 493-9614

INCORPORATION DATE: June 23, 1969
POPULATION: 554
REGULAR ELECTION: First Tuesday in October
SALES TAX: 2%
CITY COUNCIL MEETS: Bi-Monthly

MAYOR: Emma Ayojiak-Carlos 1985

CITY COUNCIL MEMBERS

Andrew Franklin 1987
William Coupchiak 1986
Anuska Schaeffer 1985
Henry L. Bavilla 1985
Henry Pavian 1985
John Coopchiak 1985

SCHOOL BOARD

Andrew Franklin
Anuska Schaeffer

PLANNING & ZONING COMMISSION

Teddy Coopchiak, CIP
Henry Kohuk
Billy Blue
Henry Pavian
Andrew Franklin

MUNICIPALLY OWNED UTILITIES:

Water, Sewer, Airport, Refuse Collection

ADMINISTRATOR Margie Coopchiak
ADMINISTRATIVE ASSISTANT. Marie Pavian
AIRPORT MANAGER William Coupchiak
ATTORNEY. Frederick Torrissi
CLERK Daniel Nanalook, Jr.
FIRE CHIEF. Kenneth Nanalook
HEALTH AIDE Sophie Nick
HEALTH AIDE Anecia Active
POLICE CHIEF. Herbert Lockuk, Sr.
TREASURER Henry L. Bavilla
VPSO. Stan Active, Jr.
VPSO Ken Nanalook
WATER-SEWER SUPERINTENDENT. Pete Abraham

Fairbanks

410 Cushman Street
Fairbanks, Alaska 99701

Home Rule City

Phone: (907) 452-1881

INCORPORATION DATE: November 10, 1903
POPULATION: 27,103
REGULAR ELECTION: First Tuesday following first Monday in October
SALES TAX: None
CITY COUNCIL MEETS: First Monday following First Thursday

MAYOR: Bill Walley 1986

CITY COUNCIL MEMBERS

Chris Anderson 1985
Valerie Therrien 1985
Paul Whitney 1987
Ted Lehne 1986
John Immel 1987
Janet Halvarson 1986

MUNICIPALLY OWNED UTILITIES:

Water, Sewer, Electricity,
Telephone, Steam

ATTORNEY. Herb Kuss
CLERK Carma B. Roberson
ELECTRIC SUPERINTENDENT Keith Sworts
ENGINEER. John Phillips
FINANCE DIRECTOR. Robert Wolting
FIRE CHIEF. Warren Tilman
HEAT/WATER DISTRIBUTION SUPERINTENDENT. Charles Meggitt
MANAGER W.C. Droz
PARKS & RECREATION DIRECTOR Terry Leberman
POLICE CHIEF. Howard Mahler
PUBLIC UTILITY MANAGER. Virgil Gillespie
PUBLIC WORKS DIRECTOR Lane Thompson
PURCHASING OFFICER. Paul Raiford
SEWER SUPERINTENDENT. John Miko
WATER SUPERINTENDENT. Dar Heine

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

BILL SHEFFIELD, GOVERNOR

REPLY TO:

1031 W 4th AVENUE
SUITE 200
ANCHORAGE, ALASKA 99501
PHONE: (907) 276-3550

1st NATIONAL CENTER
100 CUSHMAN ST.
SUITE 400
FAIRBANKS, ALASKA 99701
PHONE: (907) 452-1568

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

February 25, 1985

Hon. Edna DeVries
Alaska State Senate
Pouch V
Juneau, AK 99811

Re: Togiak Bay proposed annexation

Dear Senator DeVries:

I have reviewed your February 22 request for legal advice on the proposed annexation of Togiak Bay and have attempted, in the short time available, to respond to your questions.

It appears there is no clear answer to questions 1-3 regarding jurisdiction over Togiak Bay. I am informed that, under normal juridical principles, Togiak Bay (if bounded by Tongue Point and Rocky Point) may contain slightly less than the area usually required to qualify as a traditional bay. It is a close call and has not been worked out using exact dimensions. If Togiak Bay was considered a juridical bay, then Alaska's jurisdictional boundary would extend three miles beyond the mouth of the bay. However, that has not been unequivocally established.

Not being familiar with the legal technicalities of the Territorial Sea and the Contiguous Zone, I spoke with Tom Koester, assistant attorney general in charge of our natural resources section. I explained to him the nature of your request and showed him the nautical chart of the "Alaska Peninsula and Aleutian Islands to Segum Pass" which was presented to the Senate Community and Regional Affairs Committee on February 21. The method of determining Alaska's Territorial Sea is currently a matter of litigation between the state and the federal government in the U.S. Supreme Court. United States v. Alaska, No. 84 Original. Although Togiak Bay is not at issue in the litigation, Tom told me that the state's position in the suit would result in drawing the state's offshore boundary line south of the islands at the mouth of Togiak Bay. The water in Togiak Bay and between the bay and the islands (Hagemeister Island, Walrus Islands, and Round Island) would therefore all be within Alaskan jurisdiction. Because we do not have complete background data and, of course, do not know what the outcome of the lawsuit before the U.S. Supreme Court will be, this position as it relates to Togiak Bay is

Senator Edna DeVries, Chairman
Community & Regional Affairs Committee
Alaska State Legislature

February 25, 1985
Page #2

not certain, although it is the state's position.


I am sorry that there is no precise answer to these questions. The definition of a bay and the offshore boundaries of the state are matters for experts and subject to great dispute. It should be noted that the Territorial Sea and Contiguous Zone are concepts that were designed for the regulation of shipping. It is not impossible, and indeed not all that uncommon, for a municipality to define its boundaries without regard to the Territorial Sea lines.

Additionally, you asked if there are legal ramifications of consequence to annexing part of a physical structure while a remaining section of the structure remains unannexed. Without having further information, this is a difficult question to answer. As I understand it, the structure in question is a fish processing operation with a dock extending into the water and a plant on the shore, above the high tide line. The portion of the dock projecting into Togiak Bay below the high tide line will be subject to the jurisdiction of the City and, in that sense, there will be legal ramifications for that operation (e.g., local taxation, ordinances, etc.). However, I do not view the annexation of part of a structure as a legal obstacle to the entire annexation.

Please contact me if you have any further questions.

Sincerely yours,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By: 
Susan D. Cox
Assistant Attorney General

SDC/pjg

cc: Hon. Peter Goll
House of Representatives

Eric Meyers
Rep. Adelheid Herrmann's Office
House of Representatives

Dan Bockhorst
DCRA -- Municipal & Regional
Assistance Division

Alaska State Legislature

Senate

Committee on Community and Regional Affairs



Official Business

Senator Edna DeVries, Chairman

Members:

Senator Ferguson, Vice Chairman

Senator Coghill

Senator Sturgulewski

Senator V. Fischer

Pouch V

Juneau, Alaska 99811

February 23, 1985

To: Representative Goll, Chairman
House Community & Regional Affairs

From: Senator Edna DeVries, Chairman
Senate Community & Regional Affairs

Subj: Local Boundary Commission Annexation Decisions
on Fairbanks and Togiak

As was reported to you by staff after our committee meeting on Thursday, Feb 21, it was agreed that resolutions disapproving the above two decisions would be introduced on the floor for possible action by the committee. Attached are copies of the two resolutions that were read across on Friday, Feb 22, and assigned to Senate C&RA.

Testimony before committee on Feb 21, brought up new questions concerning the proposed Togiak annexation. The questions basically relate to jurisdiction in the water area proposed for annexation. Attached is a copy of my memorandum to the Attorney General requesting an opinion on the relevant questions.

I asked for and received the approval of the Senate body to waive the 5-day rule on hearing SJR 17 & 18. As you will note by my memorandum to the Attorney General, final hearing on the two annexations in question will be held on Tuesday, February 26. The exact time has not yet been decided.

If you have questions, please give me a call at Ext 4712.



Official Business

Alaska State Legislature

Senate

Committee on Community and Regional Affairs

Senator Edna DeVries, Chairman

Members:

Senator Ferguson, Vice Chairman

Senator Coghill

Senator Sturgulewski

Senator V. Fischer

Pouch V

Juneau, Alaska 99811

February 22, 1985

To: Attorney General
Attn: Susan Cox

From: Senator Edna DeVries, Chairman *Edna*
Community and Regional Affairs Committee

Subj: Opinion re: Togiak Bay proposed annexation

I wanted to clarify the questions that I wish answered for the Committee in connection with our decision regarding the above subject.

As pertains to Togiak Bay and the proposed annexation:

- 1) Where is the boundary line for state and/or local jurisdiction?
- 2) Where is the boundary line for the Territorial Sea and Contiguous Zone?
- 3) What jurisdiction has authority over the above defined water areas for purposes of public health and safety?
- 4) Are there legal ramifications of consequence to annexing a part of a physical structure while the remaining section of the structure remains unannexed?

It is necessary that I have the Dept of Law opinion on this matter by Tuesday morning, February 26 prior to Senate Session so that I may call the Committee back together to make a final decision in time to meet the legal deadline per AS 09.68.010.

Introduced: 2/22/85
Referred: Community and Regional Affairs

1 IN THE SENATE

BY THE COMMUNITY AND
REGIONAL AFFAIRS COMMITTEE

2 SENATE JOINT RESOLUTION NO. 17

3 -- IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION


5 Disapproving the recommendation of the
6 Local Boundary Commission for annexation
7 of territory to the City of Fairbanks.

8 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 WHEREAS, under art. X, sec. 12, Constitution of the State of Alaska,
10 the Local Boundary Commission has presented to the legislature its recom-
11 mendation number one dated January 23, 1985, entitled "Recommendation for
12 the Annexation of Territory to the City of Fairbanks"; and

13 WHEREAS a recommendation of the Local Boundary Commission presented to
14 the legislature becomes effective 45 days after presentation or at the end
15 of the session, whichever is earlier, unless disapproved by a resolution
16 concurred in by the majority of the members of each house;

17 BE IT RESOLVED by the Alaska State Legislature that recommendation
18 number one of the Local Boundary Commission dated January 23, 1985, and
19 entitled "Recommendation for the Annexation of Territory to the City of
20 Fairbanks" is disapproved.



Introduced: 2/22/85
Referred: Community and Regional Affairs

IN THE SENATE

BY THE COMMUNITY AND REGIONAL
AFFAIRS COMMITTEE

SENATE JOINT RESOLUTION NO. 18

IN THE LEGISLATURE OF THE STATE OF ALASKA
FOURTEENTH LEGISLATURE - FIRST SESSION

Disapproving the recommendation of the
Local Boundary Commission for annexation
of territory to the City of Togiak.

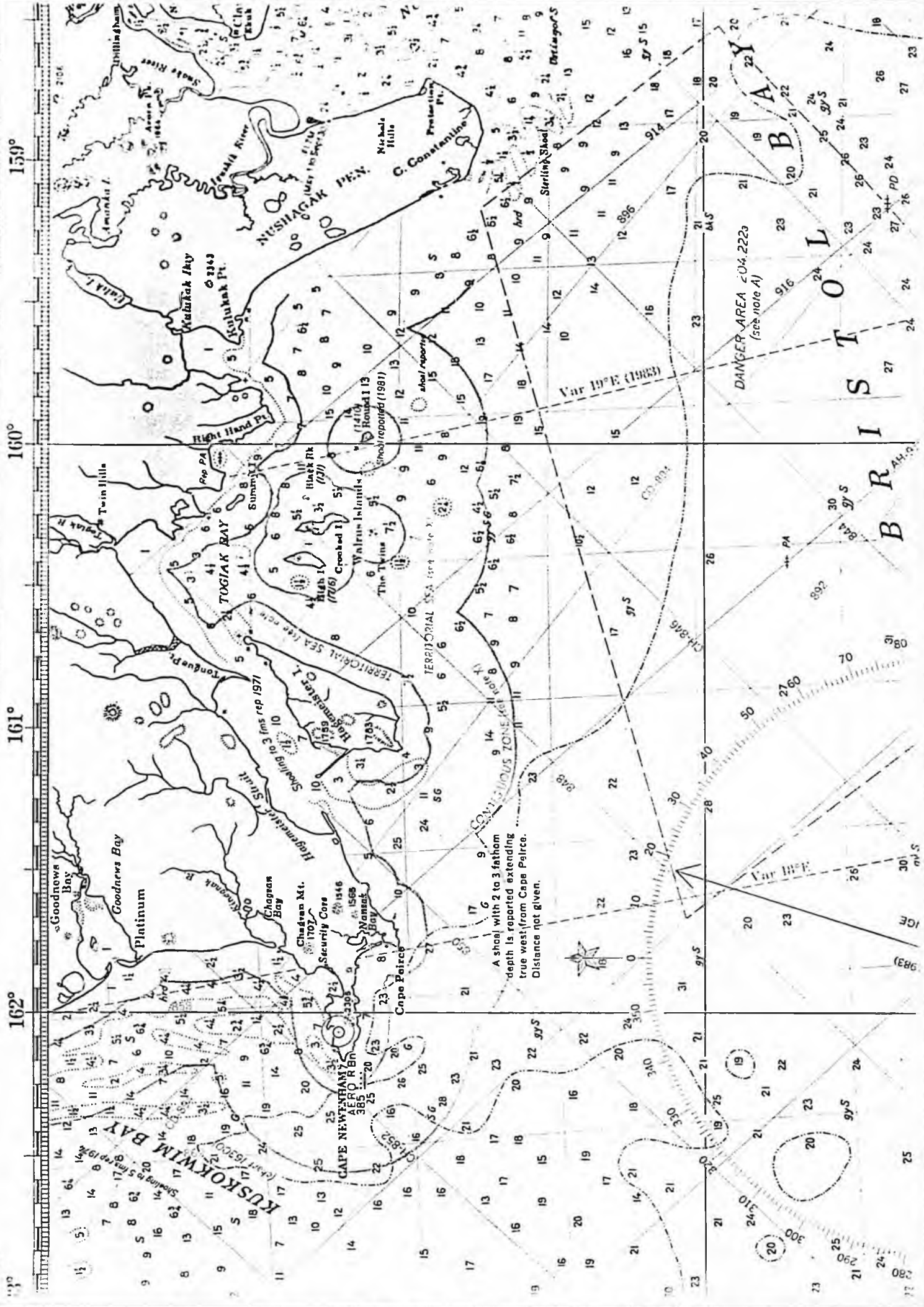
BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

WHEREAS, under art. X, sec. 12, Constitution of the State of Alaska,
the Local Boundary Commission has presented to the legislature its recom-
mendation number two dated January 23, 1985, entitled "Recommendation for
the Annexation of Territory to the City of Togiak"; and

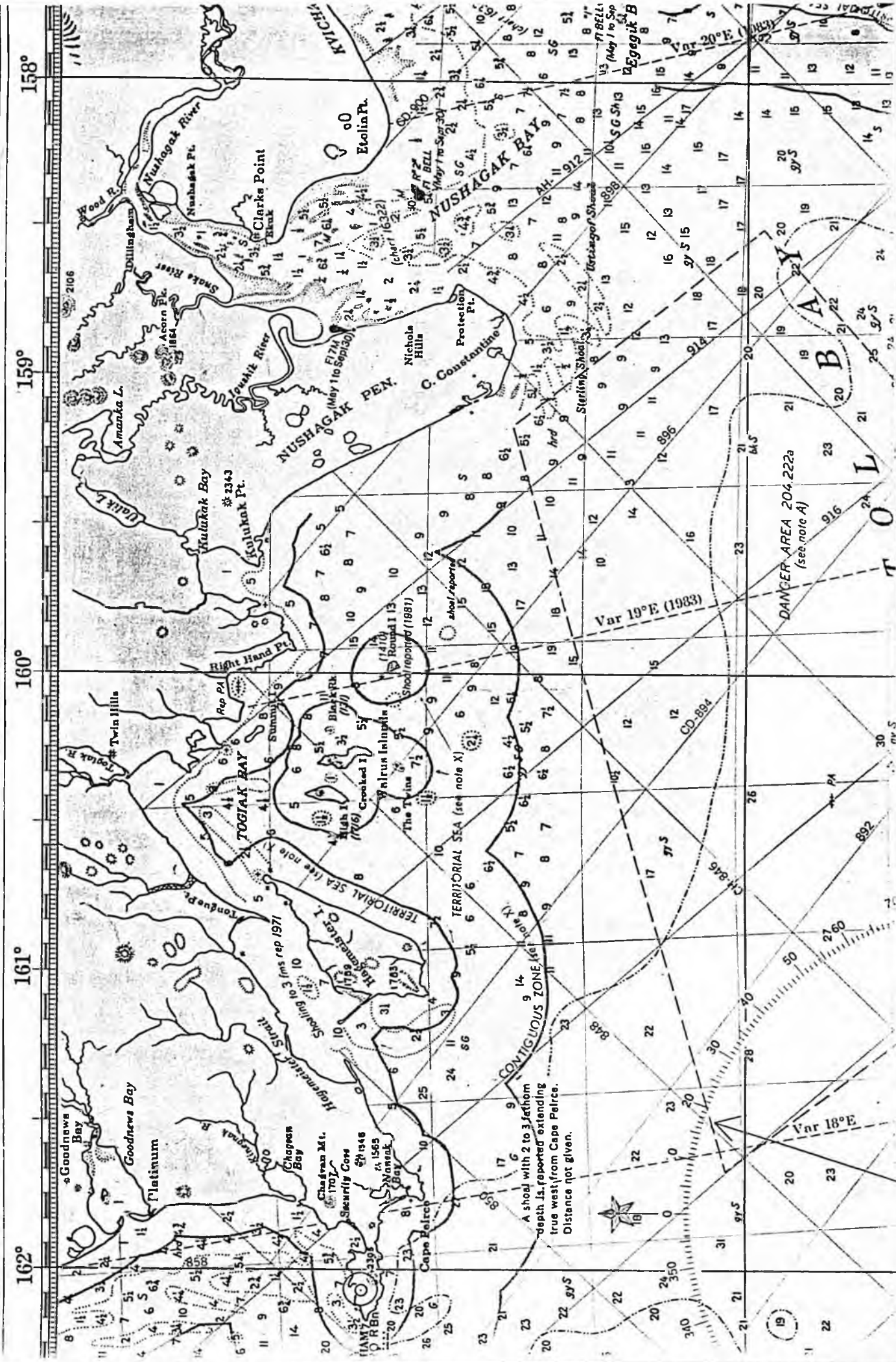
WHEREAS a recommendation of the Local Boundary Commission presented to
the legislature becomes effective 45 days after presentation or at the end
of the session, whichever is earlier, unless disapproved by a resolution
concurring in by the majority of the members of each house;

BE IT RESOLVED by the Alaska State Legislature that recommendation
number two of the Local Boundary Commission dated January 23, 1985, and
entitled "Recommendation for the Annexation of Territory to the City of
Togiak" is disapproved.

SOUNDING



66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100
 162° 161° 160° 159° 158°
 SOUNDINGS IN FATHOM
 Senator De Vries
 X4712



A shoal with 2 to 3 fathom depth is reported extending true west from Cape Peirce. Distance not given.

Var 19° E (1983)

Var 18° E

DANGER AREA 204.222a (see note A)

T O L A Y

Senator John B. (Jack) Coghill
Alaska State Legislature

Pouch V
Juneau, Alaska 99811
(907) 465-1715

Box 458
Kenai, Alaska 99760
(907) 852-5171



MEMORANDUM

TO: C&RA Committee Member
FROM: Senator Coghill
RE: Letter from James Hackett
DATE: February 18, 1985

Enclosed is a letter from Mr. James Hackett, attorney for Dennis Wise in Fairbanks.

It looks to me that we have an end run being done through the "direct" way of annexation to the Legislature for one parcel in this area when other areas are being done by citizen vote.

I would suggest we deny this request and have the annexation done through election (which never hurt anyone).

1

Feb 19 - 3:30 -

Togiak -

Mayor - intense fishing activity
4 hr mtg - Jan 12 before public
publ police protection needed to control alcohol
Twin Hills community.
Raw fish tax -- could hire Trooper to
patrol water area

Arthur from Twin Hills - opposed

~~9 AAC 10~~ Art. III Sec 80. appln of
standards

19AAC 10.80
appln of
standards

do not know if bootleggers or
processors are creating problems
Togiak has not stopped problem of alcohol
in the present city - so cannot stop it in
new larger area

~~Ferr in need of City~~

~~FERR. in need of City services~~

Gilliani - Togiak met 3 of 9 standards
proposed in Regs

Resident of Togiak Bay -

people losing property from seiners
and killing of walrus, whales, animals needlessly

Moses - lifelong resident of Togiak - increase in alcohol
related accidents -- support annexation -
need water safety patrol

Wilbur - in Togiak 39 yrs - for annexation

Roger - not too familiar w/annexation procedures
Twin Hills opposes annexation
did Togiak ask for special service area

DeVries - No - they asked for annexation

Gillian - Some years ago, they asked for a
larger service area ^{that included Twin Hills} -- we recommended that
the Legislature set up a service ^{area} - they
did not - ~~so~~ so Togiak came back ---
this time w. a smaller area for
annexation that does not include any
Twin Hills ..

Katie - Health-aide - because annexation
will not stop alcohol - Togiak
should have better reason - for
annexation, believe there is another

reason besides the alcohol problem

?

have seen deaths from alcohol - and we are trying to protect from May to Sept -- when many people die --
With this tax could provide

Fairbanks - Dennis Wise - lives in Fairbanks for 33 yrs - built over 1500 apts

have never before fought annexation

Fire Service Area 133 yes 10 against
APUC when residents were against annexation

My projects have been inspected by the State
Records of LBC have not been made available
tape we rec'd was inaudible --

Coghill -- what records did you ask for?
Smythe -- hearing records --

Bockhorst -- did have duplicate copy made --
We have a Court Order to provide all info
and we will do so --

DeVries - Gruenberg had to leave - is watching this closely

Wise - Davis or Peger Rds are not being maintained by City and will not be
I am providing drainage

The 117 acres are not urban in character
Health and safety can be responded to by other service agencies

Records of boundary commission were bad and were told they were bad months ago - City looked so bad -- I wanted that hearing made public

Smother - Wise the only one at hearing who was against annexation

Brckhorst - Susan Cox 2 Dept of Law is here -- says record will be provided

Lehne -- Dep Mayor - respect Wise - discuss process -

~~also petitioned~~ petitioned this time because wanted to give property owners a greater voice
believe property is urban in character

SW prop. owners assn. wanted this
Prop owners south of here have petitioned for annexation - will be a vote

No people from Jones Subdivision are against this annexation.

Arlessi - is Boro for or against

Lehne - we asked them and they wrote saying they had no objection

Coghill - looks like to me you have an end run around due process -- Since Judge has issued a stay to decision of LBC

Lehne - disagree - last time used this was to annex Ft Wainwright

Coghill - Art 1 -- allows protection of all rights

Ron Smith - attorney for City and City Utilities prop. owners to West opposed to annexation -- no people within area against except Wise and his worker --

if Res. passes resolution against LBC -- their decision becomes moot - will violate due process if you pass resolution

Univ fore Dist voted for because it was them or nothing

Hackett -- easy way to find out if there were overwhelming support for annexation - allow a vote -- City does not annex urban areas - Tanana Fair/College area not annexed

Fischer - what does stay mean?

Hackett - I don't know - but if City really is in 6 in that area they should ask for a vote

Fischer -- don't want a political speech
what does it mean

Hackett -- I'm not sure -- I don't know

Thursday - Feb 28 - C&RA

Coghill - LBC & → 67 ④ ✓ ⑨

✓ Toq has one so -- 2 I see it
as setting a precedent

so will not support Toquak
but will support Fairbanks

Ferguson - Moved to Table &
Toquak annexation

DeVries - I object -- Wash. D.C. is
already in this # → cost us
money

Fischer - I don't see 6. P 7

to table yes yes yes - DeVries No

Coghill - move out Fair w/indian recommendations

SB 137 Rodey

Ferguson B, C, D & E Fraal

Rodey - yes

Alaska State Legislature

Senate

Senator Edna DeVries, Chairman

Members:

Senator Ferguson, Vice Chairman

Senator Coghill

Senator Sturgulewski

Senator V. Fischer



Official Business

Committee on Community and Regional Affairs

Pouch V

Juneau, Alaska 99811

February 19, 1985

C&RA Meeting -- 3:30p

This meeting has been continued from the Feb 5 meeting wherein the Local Boundary Commission presented its report to the Legislature. The two items for consideration are the Commission approved annexation of 117 acres to the City of Fairbanks and 183 square miles to the City of Togiak. Teleconference hook-up has been setup with Fairbanks and Togiak.

Togiak has requested to testify from 3:30 to 4:00p

The Mayor of Togiak, Emma Ayojiak-Carlos

will testify-- I do not know how many others

Fairbanks testimony will be from 4:00 until 4:30p

Dennis Wise and/or his attorney, Mr. Hackett

will testify and the City of Fairbanks will be

represented by City Attorney Herb Kuss

Information received since the February 5 meeting on the Fairbanks annexation: Superior Court Judge James Blair has issued an order staying the Local Boundary Commission decision pending appeal filed by Wise Enterprises.

The committee requested the Dept of Community and Regional Affairs to clarify their position on the annexation of the area requested by Togiak, since their present position paper recommends against annexation. I called and requested this written clarification last week and was told that it would be provided prior to today's meeting.

The meeting at 6:30p today was suggested by the Committee in order to have a work session with the Local Boundary Commission on incorporation within the unorganized borough. I have attached two documents that are general in nature but do speak to this issue. I suggest that you open the discussion by requesting Arliss to give an overview of some of the work she did on this issue while she was chair of Senate Community and Regional Affairs.....

I suggest that you ask the Ccmmission to provide the Committee with information on how many requests for incorporation have been received over the past 5 years, and how many of those requests have been approved and how many have been denied.

The Commission might be asked to give its opinion as to incorporation within the unorganized borough.

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

BILL SHEFFIELD, GOVERNOR

REPLY TO:

1031 W 4th AVENUE
SUITE 200
ANCHORAGE, ALASKA 99501
PHONE: (907) 276-3550

1st NATIONAL CENTER
100 CUSHMAN ST.
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FAIRBANKS, ALASKA 99701
PHONE: (907) 452-1568

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

February 26, 1985

Hon. Edna DeVries
Alaska State Senate
Pouch V
Juneau, AK 99811

Re: Proposed Fairbanks annexation
and appeal in Wise v. LBC

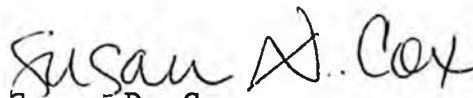
Dear Senator DeVries:

I have enclosed a copy of the order signed by Judge Blair in the Fairbanks appeal of Mr. Wise which sets aside the stay the judge earlier ordered. The form of order was one I provided with the Motion for Reconsideration filed February 19, 1985, a copy of which you have seen. The judge signed the order February 25.

Please inform your committee members that the stay mentioned earlier at the hearings and in various documents has been abandoned by the court, and is not an impediment to the legislature's review of the Fairbanks annexation proposed by the Local Boundary Commission.

Sincerely yours,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By: 
Susan D. Cox
Assistant Attorney General

SDC/pjg

cc: Hon. Peter Goll
House of Representatives

Dan Bockhorst
DCRA -- Municipal & Regional
Assistance Division

AD

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
FOURTH JUDICIAL DISTRICT AT FAIRBANKS

DENNIS B. WISE d/b/a/ WISE)
ENTERPRISES, INC.,)
Appellant,)
vs.)
STATE OF ALASKA LOCAL BOUNDARY)
COMMISSION,)
Appellee.)

FILED in the Trial Courts
State of Alaska, Fourth District

FEB 25 1985

By Deputy
No. 4FA-85-60 CIV

ORDER

This court having considered appellee's Motion for Reconsideration of February 5, 1985 Order and Affidavit of Counsel, and otherwise being advised of the premises,

IT IS ORDERED that the court's order of February 5, 1985, approving appellant's supersedeas bond nunc pro tunc and granting a stay of the Statement of Decision approved by the Local Boundary Commission on December 1, 1984, pending the appeal herein, is hereby set aside. The Statement of Decision, entitled "Summary of Proposed Action," is not a final decision and therefore is not a judgment the enforcement of which can be stayed.

DATED: Feb. 25, 1985

James R. Blum

Superior Court Judge

I certify that on 2-25-85
copies of this form were sent to
CLERK: *[Signature]*
[Signature]
Hackett

LDG
2-19-85

OFFICE OF THE ATTORNEY GENERAL
STATE OF ALASKA
First National Center 100 Cushman, Suite 400
Fairbanks, Alaska 99701 Phone: (907) 452-1568

Order



Official Business

Alaska State Legislature

Senate

Committee on Community and Regional Affairs

Senator Edna DeVries, Chairman

Members:

Senator Ferguson, Vice Chairman

Senator Coghill

Senator Sturgulewski

Senator V. Fischer

Pouch V

Juneau, Alaska 99811

C&RA Joint House/Senate Meeting 2/19/85

3:30p -- Butrovich Room

Continue hearing on two proposed annexations before the
Local Boundary Commission

--- Fairbanks has petitioned to annex 117 acres to the
City...

The annexation is contested by Dennis Wise of
Wise Enterprises -- there will be teleconference hookup to
Fairbanks - Superior Court Judge Blair has issued a stay order
to the Commission decision on the Fairbanks annexation

--- the City of Togiak has petitioned the Commission to annex
183 square miles --- The Dept of C&RA originally
recommended denying the Togiak annexation; however
by memorandum dated Feb 15th C&RA supports this annexation.

The City of Togiak will be on line with teleconference
hook-up to the Committee

6:30p -- Butrovich Room

Work Session with joint committee to discuss with the Local
Boundary Commission the issue of incorporation within the
the unorganized borough

Attached are three separate issue papers on this subject that
you may find instructive

*attached

~~Regulatory or quasi judicial
absence of a provision~~

~~Constitution would have to be amended to require
confirmation~~

~~Coghill - Eliz - will call back~~

~~Fischer - told Ginger~~

~~Arless - told Carl~~

~~Discussed w/ Bob Berry --~~

~~Kay Wallis - 3732 -- Pat Williams - both meetings~~

~~Fornace - 4894, 3875 --- N/A~~

~~Phillips -- 4949 - answering machine~~

~~Struenberg -- 4968 --- (Nancy)~~

~~Koponen -- 4992 -- (Lisa)~~

~~Marrow -- 2719 (Mark Cowart)~~

~~John War (902) 245-2555
(703) 521-4996~~

Call To
Shida
Callaghan
2/15/85
Carol Derfner - d. b e s
i e l e m y g . . . Thank-you

Look at Constitution

Bettles - 6' 8" -- Emil dragged feet -- redraft of
White comm. w AF station

Evansville - Native - Earl Emil - Doyon

Attorney for Bettles threatened Notti

Staff) m to r 4 can set over hearing
I have r the hearing indefinitely

Shiela - don't postpone --
called special mtg in Aug
to continue it.

Majority changed date and 2 wks
Comm came unglued --
taken out prior to mtg in Bettles
had to get rid of her before
Akiachuk - tribal government --

us.

Jo Anderson would be replaced w/ Juana Native
Charles Bettisworth - reappointed
now Comm - has

Dave Hanson 90% income from AFN
Greist on NANA Bid
Lands man for NANA

Sillan Symthe - income all contracts for
Borough

1 yr ago - Fight w/ Notti - Jeff Smith
White people could not participate in Tribal Council decisions

Dan Bockhorst

Jim Sanders got transferred - wrote 5 reports ^{went to Bettles}
Gene Kane

Shiela - Comm 7/6/80 - Loss before on Comm 10 yrs
Rec'd ltr day of hearing on Kat --
would have

Most subject

Goll -- of territory of annexed --

many hearings --
City/Borough gov. request - compromised
amended decision to allow more land
Everybody happy -- then Goll blew up -- because
they changed their mind --

Financial disclosure required --

Scott Oviatt - Seminar on Pro-Life Issues
where to hold it?

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

BILL SHEFFIELD, GOVERNOR

REPLY TO:

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PHONE: (907) 452-1568

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

February 20, 1985

Hon. Edna DeVries
Alaska State Senate
Pouch V
Juneau, AK 99811

Re: Wise v. Local Boundary Commis-
sion (proposed annexation)

Dear Senator Devries:

After attending the February 19 meeting of the joint House and Senate Community and Regional Affairs committees on the Fairbanks annexation proposed by the Local Boundary Commission (the LBC), I felt it was important to provide you with a copy of the commission's recent motion regarding the court's stay of its decision. A stay is authorized under the Appellate Rules of Procedure to prevent enforcement of a judgment while it is being appealed. Usually, a stay is granted as a matter of course upon filing of a supersedeas bond. Appellate Rule 603(a)(2).

The position taken in the attached motion asserts that there is no judgment the enforcement of which can be stayed, until the time for legislative review passes. As you know, an annexation does not become effective until 45 days after the LBC proposes it to the legislature, and only if the two houses of the legislature do not concur in a disapproving resolution. Alaska Const. art. X, § 12; AS 44.47.583.

In requesting a stay, Mr. Hackett, counsel for Mr. Wise, did not mention the applicable constitutional or statutory provisions pertaining to the effective date of this annexation. I have filed a motion to have the court set aside its stay, because these provisions were overlooked. At the least, the stay should not be interpreted to interfere with the constitutionally-established period of legislative review. Through the teleconference network, Mr. Hackett himself testified that he was unsure what the stay meant, that it was a red herring as far as the legislature was concerned, and that the legislature should not consider the fact that an appeal has been filed in conducting its review. In the latter comments, I concur.

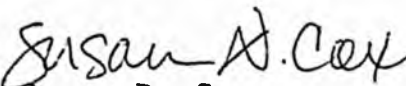
Hon. Edna DeVries
Alaska State Senate
Re: Proposed Fairbanks annexation

February 20, 1985
Page #2

I would be happy to provide your committee with any further information on the status of the Fairbanks appeal. If you would like additional copies for committee members of the enclosed motion, or the Motion to Dismiss Appeal which I provided you after the February 19 hearing, please contact me.

Sincerely yours,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By: 
Susan D. Cox
Assistant Attorney General

SDC/pjg

cc: Hon. Peter Goll
House of Representatives

James Hackett, Esq.

February 5, 1985

C. B. Bettisworth

introduced members present
Bettisworth
Smythe
Bert Greist

Gene Kane - staff - supervised by Gene Kane

Dil Smythe -

Baldwin - Wise vs Local Boundary Comm.
will file motion to dismiss the
action

Goll - all corres german to your action
↳ & 2 you to the Leg or
Legislators be communicated to the
chairs of the 2 committees

Dan Bockhorst

Dept. felt area too large - excessive
felt Togiak would not be able to
deal w/ alcohol in so large an area -
and that the City was more interested
in raw fish tax,

Earlier a recommendation that
service district be instituted - but no
action —

annexed tidelands only -- no uplands

yes - Dept reviewed their decision and now agrees
that Togiak annexation should be approved

Smythe Area covers salmon fishing area and that
is why the area is so large

Sturgulewski

Is there a chance to increase the property
tax base?

Bockhorst - would extend city's jurisdiction

Meeting on 19th

Smythe

Annexation of water areas is not nec:

Coghill - philosophy of annexation?

Smy - follow law & regs.

Coghill -- has this philos. changed?

Bettis -- We have adopted regulations - which we use as guidelines -- have been as consistent as possible in enforcing regs.

Coghill -- Want to discuss the annexation request which was denied by the LBC for Nenana

Goll -- my legislation will not ~~tie~~ ^{limit} the power ~~of~~ of the Comm but will require an advisory vote --

Want to have Comm of the proposed legislation

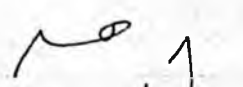
Marron

Tend to agree w/ Wise - He is being railroaded by the City of Fairbanks and the Local Boundary Commission

Fischer -- unorganized borough - illegal --
to the boundary comm. concerned about
what is happening in rural Alaska

Bettis -- have never taken active role in soliciting
↳ of boro's -- have passive role based
on the will of the people - Leg site as
Assembly for unorganized boro.

Coghill ~ Service districts -- organized around
schools - tried in '60's - Too early --
could be time for it now

Arless --  -- to this w/ Sen Fish
and I bring in our info and some
special witnesses --

Smythe Togiak - report -- there is an error -

Fischer - Ask DCCA to update their position
in writing --

Feb 21--

Lamber-

Could easily evade taxes by anchoring around the point --

large portion of area is ~~outside~~ in the territorial sea

is within contiguous fisheries zone but that does not give them authority to patrol

Fischer - Has this been legally established

Lamber - Well on this map it has been --

Fischer Question: the attorneys on this

Coghill - Can we annex the sea

Lauder - Plant will be annexed, but dock won't be annexed - this is my problem

Coghill - move resolution denying annexation to Fairbanks —

Fischer - "NO"

Sturgulewski - "NO"

↳ } ^{you} too long S. P.
(^{me} to annex)
don't have a problem
letting this go to a vote

~~Cochit~~

Fischer - I don't object / it go to
the floor _____
But I am against it

~~Committee Report --~~

~~Cochit~~
Will

SB 47

Ferguson submitted amendment

Hayden testified

Bill Miles have reduced funding from
2 _____ to \$190 million

EKlutna is the No. 2 item in
the Anc Capitol improvements budget

WORK ORDER REQUEST FORM

N14 - 4709

KEYWORDS: boundaries
boards and commissions
municipalities

ASSIGNED TO Conk

REQUEST FOR: BILL RESOLUTION RESEARCH OTHER

SUBJECT Togiak boundary change

REQUESTED FOR Sen. C & PA BY Yvonne EXT. 4712

* DELIVER TO Sen. DeVries TAKEN BY Derrier

INSTRUCTIONS, EXPLANATIONS Resolution disapproving boundary change in Togiak by
Local Boundary Commission.

OBTAIN

SPECIAL DRAFTING INSTRUCTIONS ATTACHED

AUTHORIZED TO CONFER WITH _____

RETURN _____

_____ TO REQUESTER

APPROVED: BGS Director, Legal Services

REVIEWED _____

SPECIAL INSTRUCTIONS TO TYPIST/PROOFREADER

IN 02/20/85 DUE 02/22/85

TYPED - Draft _____ DATE _____

Final _____ DATE _____

PROOFED _____ DELIVERED _____

DRAFT

FINAL

WORK ORDER REQUEST FORM

N14 - 0710

KEYWORDS: boundaries
boards and commissions
municipalities

ASSIGNED TO Cook

REQUEST FOR: BILL RESOLUTION RESEARCH OTHER

SUBJECT Fairbanks boundary change

REQUESTED FOR Sen. C & R BY Yvonne EXT. 4712

* DELIVER TO Sen. DeVries Cab 427 TAKEN BY Barrier

INSTRUCTIONS, EXPLANATIONS Resolution disapproving boundary change in Fairbanks
by Local Boundary Commission.

OBTAIN

SPECIAL DRAFTING INSTRUCTIONS ATTACHED
AUTHORIZED TO CONFER WITH _____
RETURN _____
_____ TO REQUESTER
APPROVED: EGS Director, Legal Services

REVIEWED _____
IN 02/20/85 DUE 02/22/85
TYPED - Draft _____ DATE _____
Final _____ DATE _____
PROOFED _____ DELIVERED _____

SPECIAL INSTRUCTIONS TO TYPIST/PROOFREADER

DRAFT FINAL

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

FOURTH JUDICIAL DISTRICT AT FAIRBANKS

1
2 DENNIS B. WISE d/b/a WISE)
3 ENTERPRISES, INC.,)
4 Appellant,)
5 vs.)
6 STATE OF ALASKA LOCAL BOUNDARY)
7 COMMISSION,)
8 Appellee.)

No. 4FA-85-60 CIV

MOTION FOR RECONSIDERATION OF FEBRUARY 5, 1985 ORDER

9
10 Comes now appellee State of Alaska Local Boundary Com-
11 mission (the LBC), pursuant to Civil Rule 77(m), and moves this
12 court to reconsider its order of February 5, 1985 granting ap-
13 pellant's Motion to Approve Supersedeas Bond Nunc Pro Tunc.

14 Counsel for the LBC entered an appearance in this case
15 on January 24, 1985 requesting that all notices, motions, and
16 pleadings be served on her in Juneau. The Affidavit of Counsel
17 and Motion to Accept Late Filing submitted on the same date also
18 indicated that the LBC's attorney worked in the Juneau office of
19 the Department of Law, and that service of pleadings on the Fair-
20 banks office had caused a delay in response time. To date, how-
21 ever, none of the motions or orders in this case have been
22 served on counsel in Juneau. All of the documents of which the
23 LBC's counsel is aware have been sent to the Fairbanks Office of
24 the Attorney General, although no attorney in that office has
25 ever appeared herein on the LBC's behalf.

26 On January 24, 1985, the clerk of court for the Fourth
27 Judicial District approved a supersedeas bond filed by appel-
28 lant. Appellant then moved for approval of the bond by the
29 superior court, nunc pro tunc, on January 25. Appellant's memo-
30 randum of law cites the substance of and alleges compliance with
31 Appellate Rule 603(a)(2) and Civil Rule 80. Appellant's papers
32 did not specifically request a stay of enforcement of the LBC
33 decision being appealed, nor did they include a briefing on the
34 propriety, necessity, or scope of such a stay. However, the

ATTORNEY GENERAL, STATE OF ALASKA
STATE CAPITOL
POUCH K. JUNEAU, ALASKA 99811
PHONE 465-3600

1 form of order appellant provided for approval included the fol-
2 lowing statement:

3 IT IS FURTHER ORDERED that the Statement of
4 Decision of the State of Alaska Local Boundary
5 Commission dated December 1, 1984, which decision
6 was mailed on or about January 2, 1985, is stayed
7 pending appeal herein pursuant to Appellate Rule
8 603(a)(2) of the State of Alaska.

9 As the attached Affidavit of Counsel explains, the
10 LBC's attorney of record did not receive appellant's motion
11 until after the court signed the order provided by appellant.
12 (That order was mailed to the Fairbanks Attorney General's
13 Office on February 7, 1985.) Because the court was not informed
14 of the reasons why a stay is both unnecessary and premature, the
15 LBC moves for reconsideration of the February 5 order. The
16 court has overlooked constitutional and statutory provisions
17 which render the LBC's administrative decision a non-final judg-
18 ment at this time. Appellate Rule 506(a)(1) and (2). */

19 Appellate Rule 603(a)(2) provides, in pertinent part,
20 that "When an appeal is taken, the appellant may obtain a stay
21 of proceedings to enforce the judgment by filing a supersedeas
22 bond with ... the superior court...." (Emphasis added.) The
23 LBC does not contest the adequacy of appellant's supersedeas
24 bond, but contends that there is no judgment the enforcement of
25 which can be stayed. The LBC issued an administrative decision,
26 entitled Summary of Proposed Action, recommending annexation of
27 approximately 117 acres to the City of Fairbanks. The annexa-
28 tion procedure undertaken in this case, as has been explained in
29 the LBC's January 24th pleadings, requires a period of legisla-
30 tive review before the annexation can take effect. Alaska
31 Const. art. X, § 12; AS 29.68.010(a); AS 44.47.567(b)(2). As
32 required by statute and the state constitution, the LBC submi-
33 tted the proposed annexation to the legislature on the 10th day

34 */ On the same basis, the LBC contends that filing of this ap-
35 peal is premature and is filing a Motion to Dismiss Appeal here-
36 with. For factual background supporting this motion, refer to
37 the affidavits and exhibits filed by the LBC in this case.

ATTORNEY GENERAL, STATE OF ALASKA
STATE CAPITOL
POUCH K. JUNEAU, ALASKA 99811
PHONE 465-3600

1 of the session. The annexation does not become effective until
2 "45 days after presentation or at the end of the session, which-
3 ever is earlier, unless disapproved by a resolution concurred in
4 by a majority of the members of each house." AS 44.47.583.

5 Therefore, the administrative proposal is not a final
6 decision until the period for legislative review has passed. If
7 the legislature concurs in a disapproving resolution, there will
8 be no judgment to stay enforcing. If the period for review
9 passes without a legislative veto, the proposed annexation be-
10 comes effective after March 9, 1985. Only at that juncture
11 might it be appropriate or necessary for appellant to seek pro-
12 tection from enforcement of the annexation.

13 The mere filing of a supersedeas bond by appellant
14 cannot interfere with the legislature's constitutional and stat-
15 utory review process. The LBC may only present proposed annexa-
16 tions to the legislature in the first 10 days of the session
17 each year. Alaska Const. art. X, § 12. The LBC has done so for
18 the Fairbanks annexation and legislative consideration of the
19 proposal has begun. If appellant's stay effectively removes the
20 subject from legislative review at this time, the subject could
21 not be presented to the legislature for another year. No bond
22 could suffice to protect the City of Fairbanks and the LBC if
23 such were the circumstances. The matter must remain before the
24 legislature now, and, if appropriate, reviewed by the court
25 after the legislative period is concluded.

26 The LBC requests that the court's February 5 order
27 staying the LBC Statement of Decision be set aside because that
28 decision to be stayed is not final or effective. AS 44.47.583.
29 In the alternative, the LBC asks that the court modify the Feb-
30 ruary 5 order to clarify that it does not remove the proposed
31 annexation from the legislative review process.

32 DATED: February 18, 1985 NORMAN C. GORSUCH
33 ATTORNEY GENERAL
34 By: *Susan D. Cox*
Susan D. Cox
Assistant Attorney General

1 IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
2 FOURTH JUDICIAL DISTRICT AT FAIRBANKS

3 DENNIS B. WISE d/b/a WISE)
4 ENTERPRISES,)
5 Appellant,)
6 vs.)
7 STATE OF ALASKA LOCAL BOUNDARY)
8 COMMISSION,)
9 Appellee.)

No. 4FA-85-60 CIV

10 AFFIDAVIT OF COUNSEL

11 STATE OF ALASKA)
12 FIRST JUDICIAL DISTRICT) : ss.

13 Susan D. Cox, being first duly sworn upon oath, de-
14 poses and says:

15 1. I am the assistant attorney general representing
16 appellee State of Alaska Local Boundary Commission (the LBC) in
17 the above-captioned administrative appeal.

18 2. On January 24, 1985, I entered my appearance as
19 counsel of record for the LBC and requested therein that all
20 pleadings and orders be served on me at my Juneau address. In
21 my Affidavit of Counsel supporting a motion for acceptance of
22 late filing, also filed and served January 24, I specifically
23 mentioned that my office is in Juneau and that my tardy filing
24 of an opposition to a motion was due in part to the pleadings
25 being served on the Department of Law office in Fairbanks,
26 rather than Juneau.

27 3. I am informed that on January 25, 1985 appellant
28 filed a Motion to Approve Supersedeas Bond Nunc Pro Tunc, a sup-
29 porting memorandum of law, and a form of order. According to
30 the certificate of service, appellant mailed these papers to the
31 Fairbanks Office of the Attorney General and Gene Kane, staff-
32 person for the LBC in Anchorage that same day.

33 4. No one in the Fairbanks office of the Department
34 of Law has entered an appearance as counsel of record for the

ATTORNEY GENERAL, STATE OF ALASKA
STATE CAPITOL
POUCH K. JUNEAU, ALASKA 99811
PHONE 465-3600

ATTORNEY GENERAL, STATE OF ALASKA
STATE CAPITOL
POUCH K, JUNEAU, ALASKA 99811
PHONE 465-3600

1 LBC in this case. Despite my entry of appearance on January 24,
2 appellant has not served any of his subsequent pleadings on me.

3 5. Due to a secretary's error in the Department of
4 Law, I did not receive a copy of appellant's Motion to Approve
5 Supersedeas Bond Nunc Pro Tunc and accompanying papers until the
6 morning of February 11, 1985. I placed a call to the clerk of
7 court for the Fourth Judicial District that morning and was in-
8 formed that the court had signed appellant's form of order Feb-
9 ruary 5, 1985. In spite of my January 24 entry of appearance,
10 the clerk did not mail a copy of the February 5 order to me, but
11 sent one to the Fairbanks Attorney General's Office. It was
12 mailed February 7, 1985.

13 6. In the afternoon of February 11, I received a copy
14 of the court's February 5 order from the Fairbanks office of the
15 Department of Law.

16 7. Had I known that there was a Motion to Approve
17 Supersedeas Bond or a motion for stay before the court, I would
18 have timely filed an opposition thereto. However, I was not
19 aware of any such motion pending until nearly a week after the
20 court had ruled on it.

21 8. Because appellant did not advise the court of the
22 procedural posture of the LBC's proposed annexation under arti-
23 cle X, section 12 of the Alaska Constitution, AS 29.68.010(a),
24 AS 44.47.567(b)(2), and 44.47.583, I believe the court has over-
25 looked and failed to consider these directly controlling statu-
26 tory and constitutional provisions. This is the basis for the
27 LBC's motion for reconsideration under Civil Rule 77(m) and Ap-
28 pellate Rule 506(a)(1) and (2).

29 Further your affiant saith naught.

30 Susan D. Cox

31 SUBSCRIBED AND SWORN TO before me this 18th day of
32 February, 1985.

33 Patricia J. Higgins
34 Notary Public, State of Alaska
My commission expires: 7/21/88

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
FOURTH JUDICIAL DISTRICT AT FAIRBANKS

DENNIS B. WISE d/b/a/ WISE)
ENTERPRISES, INC.,)
Appellant,)
vs.)
STATE OF ALASKA LOCAL BOUNDARY)
COMMISSION,)
Appellee.)

No. 4FA-85-60 CIV

ORDER

This court having considered appellee's Motion for Reconsideration of February 5, 1985 Order and Affidavit of Counsel, and otherwise being advised of the premises,

IT IS ORDERED that the court's order of February 5, 1985, approving appellant's supersedeas bond nunc pro tunc and granting a stay of the Statement of Decision approved by the Local Boundary Commission on December 1, 1984, pending the appeal herein, is hereby set aside. The Statement of Decision, entitled "Summary of Proposed Action," is not a final decision and therefore is not a judgment the enforcement of which can be stayed.

DATED: _____

Superior Court Judge

ATTORNEY GENERAL, STATE OF ALASKA
STATE CAPITOL
POUCH K. JUNEAU, ALASKA 99611
PHONE 465-3600

(f) A second class borough may establish a service area by ordinance which may include only vacant, unappropriated and unreserved land owned by the municipality. A second class borough may establish a service area, with the concurrence of the commissioner of natural resources, which may include only vacant, unappropriated and unreserved land owned by the state and classified for disposal to individuals. A second class borough may provide those services in a service area established under this subsection necessary to develop state or municipal land as required by the planning and platting ordinances of the borough. Exercise of the powers authorized by this subsection shall be by ordinance. (§ 2 ch 118 SLA 1972; am §§ 9, 10 ch 85 SLA 1979)

NOTES TO DECISIONS

Effect of 1979 amendments. — The 1979 amendments to the service area provisions found in subsections (a) and (f) of this section do not violate constitutional rights of borough residents. Wolfgang Falke v. Fairbanks North Star Borough, Sup. Ct. Op. No. 2530 (File Nos. 5761, 5781), 648 P.2d 597 (1982).

Collateral references. — Standing of municipal corporation or other governmental body to attack zoning of land lying outside its borders, 49 ALR3d 1126.

Chapter 63. Alteration of Boundaries.

Article

- 1. Annexation and Exclusion (§§ 29.68.010 — 29.68.020)
- 2. Merger and Consolidation (§§ 29.68.030 — 29.68.110)
- 3. Unification of Local Governments (§§ 29.68.240 — 29.68.440)
- 4. Dissolution (§§ 29.68.500 — 29.68.580)

Article 1. Annexation and Exclusion.

Section

- 10. Local boundary commission
- 20. Annexation of military reservations

Sec. 29.68.010. Local boundary commission. (a) The Local Boundary Commission may consider any proposed local government boundary change. It may present proposed changes to the legislature during the first 10 days of any regular session. The change shall become 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.

(b) In addition to the regulations governing annexation by local action adopted under AS 44.47.567, the Local Boundary Commission shall, within 90 days of September 10, 1972, establish procedures for annexation and exclusion of territory by cities and boroughs by local

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action. The procedures established under this subsection shall include

(1) a provision requiring that a proposed annexation and exclusion must be approved by a majority of the voters voting on the question residing within the area proposed to be annexed or excluded;

(2) provisions that municipally-owned property adjoining the municipality may be annexed by ordinance without voter approval; and

(3) provisions that an area adjoining the municipality may be annexed by ordinance without an election if all property owners and voters within the area petition the assembly or council.

(c) A boundary change effected under (a) of this section prevails over a boundary change initiated by local action, without regard to priority in time. (§ 2 ch 118 SLA 1972)

Cross references. — For further provisions relating to local boundary commission procedures, see AS 44.47.565 — 44.47.583. For requirements of a hearing on local boundary changes, see AS 44.47.581.

NOTES TO DECISIONS

Defining boundaries is a legislative function. — The creation of municipalities, and the defining of the extent of the boundaries thereof, involve the exercise of legislative, not judicial, power. *Town of Fairbanks v. Barrack*, 282 F. 417 (9th Cir. 1922), cert. denied, 261 U.S. 615, 43 S. Ct. 361, 67 L. Ed. 828 (1923); *In re Annexation to City of Anchorage*, 16 Alaska 519, 146 F. Supp. 98 (D. Alaska 1956), decided under former, similar law.

The local action provision of Alaska Const., art. X, § 12 has been implemented by this section and by 19 AAC § 15.010 et seq. *Port Valdez Co. v. City of Valdez*, Sup. Ct. Op. No. 1044 (File No. 1996), 522 P.2d 1147 (1974).

Expansion of municipal boundaries is matter of statewide concern. — Those who reside or own property in the area to be annexed have no vested right to insist that annexation take place only with their consent. The subject of expansion of municipal boundaries is legitimately the concern of the state as a whole, and not just that of the local community. *Fairview Pub. Util. Dist. No. 1 v. City of Anchorage*, Sup. Ct. Op. No. 61 (File Nos. 69, 71), 368 P.2d 540, appeal dismissed and cert. denied, 371 U.S. 5, 83 S. Ct. 39, 9 L. Ed. 2d 49 (1962), decided under former, similar law.

Annexation procedure may be changed. — The state may permit residents of local communities to determine annexation questions at an election. But

when this has been done, the state is not irrevocably committed to that arrangement. If the citizens of the state, in adopting a constitution, decide that it is in the public interest to establish another election procedure, there is no constitutional obstacle to that course of action. *Fairview Pub. Util. Dist. No. 1 v. City of Anchorage*, Sup. Ct. Op. No. 61 (File Nos. 69, 71), 368 P.2d 540, appeal dismissed and cert. denied, 371 U.S. 5, 83 S. Ct. 39, 9 L. Ed. 2d 49 (1962), decided under former, similar law.

One proceeding for annexing several tracts. — See *In re Town of Sitka*, 11 Alaska 201 (1946), decided under former, similar law.

Areas in public utility district may be annexed. — The fact that the areas are embraced within a public utility district constitutes no bar to annexation. *In re Annexation to City of Anchorage*, 15 Alaska 504, 129 F. Supp. 551 (D. Alaska 1955). See *Fairview Pub. Util. Dist. No. 1 v. City of Anchorage*, Sup. Ct. Op. No. 61 (File Nos. 69, 71), 368 P.2d 540, appeal dismissed and cert. denied, 371 U.S. 5, 83 S. Ct. 39, 9 L. Ed. 2d 49 (1962), decided under former, similar law.

Consent of voters in district required if annexation proceeds under this article. — The provision of AS 42.35.370 providing for dissolution of a utility district with the consent of the voters when "the whole or the integral part of a district becomes annexed to an incorporated city"



Official Business

Alaska State Legislature

Senate

Committee on Community and Regional Affairs

Senator Edna DeVries, Chairman

Members

Senator Ferguson, Vice Chairman

Senator Coghill

Senator Sturgulewski

Senator V. Fischer

Pouch V

Juneau, Alaska 99811

January 26, 1985

Rep W

TO: Representative Goll, Chairman
House Community and Regional Affairs

FROM: Senator Edna DeVries, Chair *Edna*
Senate Community and Regional Affairs

SUBJ: Joint House/Senate C&RA Meetings

I look forward to the two joint meetings we have planned:

Feb 5 - 3:30p Beltz Rm (211) Capitol

The annual report to the Legislature by the Local Boundary Commission. Annexations to the Cities of Fairbanks and Togiak to be considered.

Feb 12 - 4:30p Beltz Rm (211) Capitol

A report from John Walsh, Vice Chairman of the National Center for Missing and Exploited Children.

The Beltz Room will be set up for the House and Senate Committee Members to sit at the dais. If you have questions, please give me a call at 465-4712.



Alaska State Legislature

House of Representatives

Committee on Community & Regional Affairs

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4833

M E M O R A N D U M

January 23, 1985

TO: Members of the House Committee on Community
and Regional Affairs

FROM: Peter Goll
Chair *Peter Goll*

SUBJECT: Report of the Local Boundary Commission

The House and Senate Committees on Community and Regional Affairs will be meeting jointly on Tuesday, February 5, at 3:30 p.m., in the Beltz Room, State Capitol Building, to review the report of the Local Boundary Commission.

The attached letter from Commissioner Emil Notti details information about this joint meeting.

ljb

attachment

STATE OF ALASKA

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

BILL SHEFFIELD, GOVERNOR

POUCH B
JUNEAU, ALASKA 99811
PHONE: (907) 465-4700

225 CORDOVA STREET - BLDG B
ANCHORAGE, ALASKA 99501
PHONE: (907) 264-2294

January 16, 1985

The Honorable Peter Goll
Chairman, Community and Regional
Affairs Committee
Alaska State House
Pouch V
Juneau, AK 99811

Dear Representative Goll:

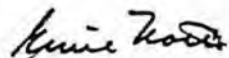
Each year the respective Community and Regional Affairs committees of the House and Senate meet with members of the Local Boundary Commission (LBC) to review the LBC report and question members of this constitutionally mandated commission on its annual activities and upcoming agenda.

It is customary for this Department to make arrangements for this meeting which is typically a joint session of the Community and Regional Affairs committees. A joint session is not required, but it generally saves time for everyone involved and is more convenient for LBC members who must take time out from their busy schedules to perform their uncompensated duties.

The LBC has identified the week of February 4-8 as a timely and convenient period to be in Juneau to address your committee and your counterpart in the other house of the Legislature. If it is at all possible to work out a mutually acceptable time to hold a joint meeting during that week that would be the preferable option. Staff from this Department may be in contact with you or your committee staff to informally expedite the arrangements. I appreciate your taking the time to arrange for this important meeting with the LBC. It is my hope that plans for a meeting during the week of February 4 can be finalized quickly so adequate notice can be given to the LBC members.

Thank you for your attention to and cooperation in this matter.

Sincerely,



Emil Notti
Commissioner

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

January 16, 1985

POUCH B
JUNEAU, ALASKA 99811
PHONE: (907) 465-4700

225 CORDOVA STREET - BLDG B
ANCHORAGE, ALASKA 99501
PHONE: (907) 264-2294

The Honorable Edna DeVries
Chair, Community and Regional
Affairs Committee
Alaska State Senate
Pouch V
Juneau, AK 99811

Dear Senator DeVries:

Each year the respective Community and Regional Affairs committees of the House and Senate meet with members of the Local Boundary Commission (LBC) to review the LBC report and question members of this constitutionally mandated commission on its annual activities and upcoming agenda.

It is customary for this Department to make arrangements for this meeting which is typically a joint session of the Community and Regional Affairs committees. A joint session is not required, but it generally saves time for everyone involved and is more convenient for LBC members who must take time out from their busy schedules to perform their uncompensated duties.

The LBC has identified the week of February 4-8 as a timely and convenient period to be in Juneau to address your committee and your counterpart in the other house of the Legislature. If it is at all possible to work out a mutually acceptable time to hold a joint meeting during that week that would be the preferable option. Staff from this Department may be in contact with you or your committee staff to informally expedite the arrangements. I appreciate your taking the time to arrange for this important meeting with the LBC. It is my hope that plans for a meeting during the week of February 4 can be finalized quickly so adequate notice can be given to the LBC members.

Thank you for your attention to and cooperation in this matter.

Sincerely,

Art 10, Constitution, Sec 12

Emil Notti
Emil Notti
Commissioner

Report from LBC -

annexations - -

Leg has 60 days to overturn

if no comments - decisions stand

*Doug 4750
Griffin
Dept
DeVries*



Official Business

Alaska State Legislature

Senate

Pouch V
State Capitol
Juneau, Alaska 99811

January 23, 1985

MEMO

TO: Senator DeVries, Chairman
Community and Regional Affairs

FROM: Peggy Mulligan
Secretary of the Senate *PM*

RE: Local Boundary Commission Report

The President has referred the report of the Alaska Local Boundary Commission, containing recommendations for the annexation of territory to the Cities of Fairbanks and Togiak.

In accordance with AS 29.68.010 these recommended boundary changes will become effective forty-five days from date or at the end of the session, whichever is earlier, unless disapproved by a concurrent resolution of the Legislature.



Official Business

Alaska State Legislature

Senate

Committee on Community and Regional Affairs

Senator Edna DeVries, Chairman

Members:

Senator Ferguson, Vice Chairman

Senator Coghill

Senator Sturgulewski

Senator V. Fischer

Pouch V

Juneau, Alaska 99811

March 7, 1985

Patrick J. Travers
Alaska Regional Counsel
United States Department of Commerce
National Oceanic and Atmospheric Administration
P.O. Box 1668
Juneau, Alaska 99802

Subject: Local Boundary Commission Report approving annexation
of Togiak Bay

Dear Mr. Travers:

Please except my appreciation to for your letter of February 26, 1985
expressing the U.S. Department of Commerce view regarding the above
noted subject.

A copy of the minutes of the Senate Community and Regional Affairs
Committee meeting on February 28, 1985 dealing with this same subject is
enclosed.

I am also enclosing a copy of a memorandum from Tamara Brandt Cook,
Deputy Director, Division of Legal Services, to me dated February 28,
1985 concerning the same subject for your information.

Sincerely,

Edna DeVries
Senator

EDV:ta

Enclosures



Official Business

Alaska State Legislature

Senate

Committee on Community and Regional Affairs

Senator Edna DeVries, Chairman

Members:

Senator Ferguson, Vice Chairman

Senator Coghill

Senator Sturgulewski

Senator V. Fischer

Pouch V

Juneau, Alaska 99811

March 7, 1985

Lt. Commander T. J. Mackell
U.S. Coast Guard
District 17
P.O. Box 3-5000 (DL)
Juneau, Alaska 99802

Subject: Local Boundary Commission Report approving annexation
of Togiak Bay

Dear Commander Mackell:

Please express my appreciation to Rear Admiral Lucas for his letter of February 28, 1985 expressing the Coast Guard view regarding the above noted subject.

As per your request, a copy of the minutes of the Senate Community and Regional Affairs Committee meeting on February 28, 1985 dealing with this same subject is enclosed.

I am also enclosing a copy of a memorandum from Tamara D. andt Cook, Deputy Director, Division of Legal Services, to me dated February 28, 1985 concerning the same subject for your information.

Sincerely,

Edna DeVries
Senator

EDV:ta

Enclosures

US Department
of Transportation

United States
Coast Guard



Commander
Seventeenth Coast Guard District

P.O. Box 3-5000
Juneau, AK 99802
Staff Symbol (d1)
Phone (907)
586-7397

5800

FEB 26 1985

Senator Edna DeVries
Alaska State Senate
Committee on Community and Regional Affairs
Pouch V
Juneau, Alaska 99811
Attn: Ms. Trudie Alford

Re: Togiak Bay Annexation

Dear Senator DeVries:

I am writing at your request concerning the Coast Guard's view of the Togiak Bay annexation.

Although I am not familiar with the case referred to by the Attorney General, I am familiar with the methods of drawing baselines as they are presently drawn under international law.

There are a few preliminary points that I would like to set out.

1. The placement of baselines, from which the outer limits of the territorial sea are measured, is a matter of international law and is presently governed by Articles 3 through 11 of the 1958 Convention on the Territorial Sea and the Contiguous Zone. 1505T, 1606, TIAS 5639, 516 UNTS 205.
2. Under international law, the federal position on the location of the baseline is, by virtue of the supremacy clause of the U. S. Constitution, superior to any state or local claim. The federal position is the only position recognized as legitimate by the international community and agencies of the federal government including the Coast Guard.
3. The U. S. government has established and published the lines delineating the territorial sea and contiguous zone on the chart entitled "Alaska Peninsula and Aleutian Islands to Seguam Pass," NOAA Chart 16011, 30th Ed., April 1983, which I understand was presented to the Committee on 21 February 1985. The lines shown on that chart represent a federal interdepartmental committee's interpretation of the applicable legal principles as applied to that geographical area. The lines represent the official U. S. government position on the limits of the territorial sea.

5800

FEB 28 1985

4. The lines published on chart 16011 are in conformity with the 1958 Convention and are the boundaries presently recognized by the international community.
5. The 1958 Convention of the High Seas defines as high seas any area beyond the territorial sea. 13 OST 2312, TIAS 5200, 450 UNTS 82.

By drawing the area proposed to be annexed on Chart 16011, it can be seen that the area extends beyond the internationally recognized limit of the territorial sea. Togiak is in effect proposing to annex a portion of what is presently recognized as high seas. Such an attempt to exercise sovereignty over the high seas would be inconsistent with international and federal law.

I would therefore urge the Committee to disapprove the action of the Local Boundary Commission at least to the extent that the proposed annexation extends beyond the limits of the territorial sea as shown on Chart 16011.



R. F. LUCAS
REAR ADMIRAL U.S. COAST GUARD
COMMANDER, SEVENTEENTH COAST GUARD DISTRICT



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
Office of General Counsel
P.O. Box 1668
Juneau, Alaska 99802
Telephone (907) 586-7414

February 26, 1985

Honorable Edna DeVries
Alaska State Senate
Attention: Ms. Trudie Alford
Pouch V
Juneau, Alaska 99811

Dear Senator DeVries:

Thank you for requesting, through Ms. Alford of your staff, my comments on the proposed annexation by the City of Togiak of Togiak Bay. I represent the National Oceanic and Atmospheric Administration (NOAA) of the United States Department of Commerce. NOAA includes such agencies as the National Marine Fisheries Service and the National Ocean Service which have significant interest in governmental jurisdiction over marine areas.

As Ms. Susan Cox of the Department of Law advised you in her letter of February 25, 1985, there is a difference of opinion between the State of Alaska and the United States as to the location of the seaward boundary of the State, that is, the three-mile limit. As Ms. Cox suggests, the State would probably take the position that all of Togiak Bay is within the State's seaward boundary, and that there is thus no impediment to the City's annexation of the Bay due to lack of jurisdiction. The Federal Government, on the other hand, has clearly taken the position that a large portion of the Bay is beyond the three-mile limit, and is thus outside the boundaries of the State. This position was developed by the Federal Inter-agency Baseline Committee, under the auspices of the U.S. Department of State, and is reflected in NOAA Nautical Chart No. 8802, which you and Ms. Cox have examined. Under this Federal view of the situation, the City would probably not be able to annex all of the proposed area, but only that portion of it that lies within the three-mile limit as illustrated on Chart No. 8802.

As Ms. Cox has noted, this difference of opinion between the State and Federal governments is now the subject of litigation before the United States Supreme Court. Perhaps one way in which the Legislature could take positive action on the proposed annexation while not raising this issue would be to approve the annexation of the proposed area of the Bay to the extent this area lies within the boundaries of the State. In that way, the extent of the annexation could be settled whenever the more general disagreement over the extent of the State's seaward boundaries is resolved, without the need for additional action by the Legislature or the Local Boundary Commission.



I appreciate very much the opportunity to participate in your deliberations on this matter, and hope that you will let me know if I can be of any further help as you formulate the Legislature's decision.

Respectfully yours,

A handwritten signature in cursive script that reads "Pat Travers". The signature is written in dark ink and is positioned above the printed name.

Patrick J. Travers
Alaska Regional Counsel



Official Business

Alaska State Legislature

Senate

Committee on Community and Regional Affairs

Senator Edna DeVries, Chairman
Members
Senator Ferguson, Vice Chairman
Senator Coghill
Senator Sturgulewski
Senator V Fischer

Pouch V
Juneau, Alaska 99811

February 26, 1985

United States Coast Guard
Legal Office
Federal Building, Room 871
Juneau, Alaska 99802

Attention: Lt. Commander T. J. Mackell

SUBJECT: TOGIK BAY ANNEXATION

As per our telephone conversation this date, please find enclosed the Report of the Alaska Local Boundary Commission with regard to the above-referenced subject.

Also enclosed is a copy of the opinion (letter), same subject, from the Attorney General's Office.

You indicated you would be able to furnish the Senate Community & Regional Affairs Committee a position paper, and/or oral testimony in time for its Thursday meeting at 3:30 p.m. on February 28, 1985.

Any input the U.S. Coast Guard chooses to make will be most appreciated.

Sincerely,

Trudie Alford
Research Assistant

Enclosures



Official Business

Alaska State Legislature

Senate

Committee on Community and Regional Affairs

Senator Edna DeVries, Chairman

Members:

Senator Ferguson, Vice Chairman

Senator Coghill

Senator Sturgulewski

Senator V. Fischer

Pouch V

Juneau, Alaska 99811

February 26, 1985

National Marine Fisheries
Legal Office
Federal Building, Room 413
Juneau, Alaska 99802

Attention: Mr. Pat Travers

SUBJECT: TOGLIAK BAY ANNEXATION

As per our telephone conversation this date, please find enclosed the Report of the Alaska Local Boundary Commission with regard to the above-referenced subject.

Also enclosed is a copy of the opinion (letter), same subject, from the Attorney General's Office.

You indicated you would be able to furnish the Senate Community & Regional Affairs Committee a position paper, and/or oral testimony in time for its Thursday meeting at 3:30 p.m. on February 28, 1985.

Any input the U.S. Marine Fisheries Service chooses to make will be most appreciated.

Sincerely,

Trudie Alford
Research Assistant

Enclosures



Official Business

Alaska State Legislature

Senate

Committee on Community and Regional Affairs

Senator Edna DeVries, Chairman
Members
Senator Ferguson, Vice Chairman
Senator Coghill
Senator Sturgulewski
Senator V. Fischer

Pouch V
Juneau, Alaska 99811

MEMORANDUM

February 26, 1985

TO: Senator DeVries

FROM: Trudie Alford

SUBJECT: TOGIAC BAY ANNEXATION (Alaska Local Boundary Commission Report)

Received phone calls this date from the U.S. Coast Guard Office and the National Marine Fisheries Service Office in Juneau. Both government agencies indicated a desire to review the territorial boundary matter in connection with the annexation of Togiak Bay.

I explained to them that the Legislature had to either allow the Local Boundary Commission decision to stand or disapprove same by a concurrent resolution on or before March 8, 1985. Representatives from both offices stated they wanted to submit written and or oral testimony on the annexation.

Per your instructions, I informed them that any input they want to make should be received not later than 3:30 p.m., Thursday, February 28, 1985.

P.O. Box 3-5000 (DL)

U.S. Dept of Transportation ¹⁹⁸⁹

U.S. Coast Guard

Dist 17

Legal Office 586-7398

ALL
- Gen of the Lt Commander
Assistants 2. J. Mackell

Mr. Judd +
Mr. McAllister +
Mr. ...
Mr. ...

Room 871

Federal Bldg.

Legal Office

U.S. Coast Guard

General Counsel

586-7414

National Marine

Fisheries Service

Pat.

Mr. Travers

Room 413

Federal Bldg



SENATOR FRED F. ZHAROFF

ALASKA STATE LEGISLATURE

P. O. BOX 405, KODIAK, ALASKA 99615 (907) 486-5259

DURING SESSION:


POUCH V, JUNEAU, ALASKA 99811 • (907) 465-3473 • 465-3474 • 465-3844 (Labor and Commerce Committee)

DISTRICT N

ALASKA PENINSULA • ALEUTIAN CHAIN • BRISTOL BAY • KODIAK ISLAND • LAKE CLARK/LAKE ILIAMNA • PRIBILOF ISLANDS • SHUMAGIN ISLANDS

M E M O R A N D U M

TO: Senate C&RA Committee Members
Senator DeVries, Chair
Senator Ferguson, Vice-chair
Senator Coghill
Senator Sturgulewski
Senator Vic Fischer

FROM: Senator Fred F. Zharoff 

DATE: February 25, 1985

SUBJ: Togiak Annexation

On Tuesday, February 26, the Senate Community & Regional Affairs Committee will be considering SJR 18. This resolution disapproves the Local Boundary Commission's recommendation for the City of Togiak's annexation of Togiak Bay. I urge you to not support this resolution.

As you know, the Local Boundary Commission has considered the Togiak annexation proposal and recommends approval. Further, while the DC&RA staff initially had some concerns about the annexation, Commissioner Notti, in his letter of February 15, 1985 to Senator DeVries, clearly states the Department's support for the Local Boundary Commission's action to approve the annexation of Togiak Bay.

The people of Togiak have shown overwhelming support for the annexation in public hearings conducted by the Local Boundary Commission. Although objections have been expressed by some individuals from Twin Hills, the Local Boundary Commission has addressed this issue in its report. Twin Hills is an unincorporated community. When and if Twin Hills decides to incorporate, the question of boundary adjustments should be taken up at that time. Therefore, I can see no reason why the annexation should not be approved.

Please keep these points in mind when you are considering SJR 18. Thank you.

*2/25/85 Distributed
by Sen. Zharoff to
Senate C&RA members.*



Official Business

Alaska State Legislature

Senate

Committee on Community and Regional Affairs

Senator Edna DeVries, Chairman

Members:

Senator Ferguson, Vice Chairman

Senator Coghill

Senator Sturgulewski

Senator V. Fischer

POUCH V

Juneau, Alaska 99811

February 22, 1985

To: Attorney General
Attn: Susan Cox

From: Senator Edna DeVries, Chairman *Edna*
Community and Regional Affairs Committee

Subj: Opinion re: Togiak Bay proposed annexation

I wanted to clarify the questions that I wish answered for the Committee in connection with our decision regarding the above subject.

As pertains to Togiak Bay and the proposed annexation:

- 1) Where is the boundary line for state and/or local jurisdiction?
- 2) Where is the boundary line for the Territorial Sea and Contiguous Zone?
- 3) What jurisdiction has authority over the above defined water areas for purposes of public health and safety?
- 4) Are there legal ramifications of consequence to annexing a part of a physical structure while the remaining section of the structure remains unannexed?

It is necessary that I have the Dept of Law opinion on this matter by Tuesday morning, February 26 prior to Senate Session so that I may call the Committee back together to make a final decision in time to meet the legal deadline per AS 29.68.010.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 28, 1985

SUBJECT: Annexation of Territory to Togiak

TO: Senator Edna DeVries
Chair, Community and Regional Affairs

FROM: Tamara Brandt Cook ^{TBC}
Deputy Director
Division of Legal Services

You have asked several questions concerning the proposed annexation of territory to Togiak. First, you want to know where the state boundary is in the area proposed for annexation. I do not have the expertise needed to make such a determination. That is very technical matter, and, I understand, there are several places where the boundary is in dispute. A map of the area to be annexed should probably be submitted to the appropriate federal agency with a request for a determination of whether it includes territory outside the state jurisdictional boundary.

In general, the state's jurisdictional boundary extends three miles past its coastline as provided under the Submerged Lands Act (See 43 U.S.C. 1312; Pollards Lessee v. Hagan, 44 U.S. 212, 223 (1845); U.S. v. California, 332 U.S. 19 (1947)). However, many factors influence the boundary determination at a particular point. It is my understanding that where there are islands within the three-mile limit, the state's boundary may include waters three miles past the islands and this can result in a jurisdiction that exceeds three miles from the state's coastline. Inland waters are also included within the jurisdiction of a state, but there is considerable confusion over how it is determined whether a body of water qualifies as "inland". Bays less than 25 miles wide seem generally to be classed as inland waters. The state also has jurisdiction over "historic bays" -- those over which the state has exercised continuous authority in the past and the authority has been accepted by other jurisdictions. (See U.S. v. Alaska, 422 U.S. (1975) holding that the lower Cook Inlet is not a "historic bay".)

You have also asked what jurisdiction has authority over the waters beyond the state's boundaries. It should be noted that not even the federal government claims outright ownership of the waters past the three-mile limit, although it exerts control over waters at the 200-mile limit as an economic zone. The federal government, however, does have the paramount rights in the area beyond the three-mile limit. Nevertheless, the principle of federal exclusivity does not preclude the state from regulating in situations that do not conflict with federal regulation. For example, the state may regulate certain aspects of extraterritorial fishing. (State v. Sieminski, 556 P.2d 929 (Alaska 1976); State v. Bundrant, 546 P.2d 530, rehearing denied, 547 P.2d 838 (Alaska 1976); hearing denied, 50 Led.2d 66) So, it cannot be said that the state has no jurisdiction over waters outside its boundaries, only that federal jurisdiction is supreme.

Lastly, you have asked whether an annexation that includes part of an improvement presents any legal problems. Although it might create some minor tax assessment difficulties, as a legal matter I can think of nothing that precludes the annexation of a portion of improved property.

Regardless of whether the proposed annexation of territory to Togiak becomes is approved, the boundaries of a city may not include territory that is not within the boundaries of the state. If the legislature does not disapprove the annexation by resolution, it will be valid as to territory described in the annexation that is within the state's boundaries.

TBC:ojb
J12/034

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

BILL SHEFFIELD, GOVERNOR

REPLY TO:

1031 W 4th AVENUE
SUITE 200
ANCHORAGE, ALASKA 99501
PHONE: (907) 276-3550

1st NATIONAL CENTER
100 CUSHMAN ST.
SUITE 400
FAIRBANKS, ALASKA 99701
PHONE: (907) 452-1568

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

February 25, 1985

Hon. Edna DeVries
Alaska State Senate
Pouch V
Juneau, AK 99811

Re: Togiak Bay proposed annexation

Dear Senator DeVries:

I have reviewed your February 22 request for legal advice on the proposed annexation of Togiak Bay and have attempted, in the short time available, to respond to your questions.

It appears there is no clear answer to questions 1-3 regarding jurisdiction over Togiak Bay. I am informed that, under normal juridical principles, Togiak Bay (if bounded by Tongue Point and Rocky Point) may contain slightly less than the area usually required to qualify as a traditional bay. It is a close call and has not been worked out using exact dimensions. If Togiak Bay was considered a juridical bay, then Alaska's jurisdictional boundary would extend three miles beyond the mouth of the bay. However, that has not been unequivocally established.

Not being familiar with the legal technicalities of the Territorial Sea and the Contiguous Zone, I spoke with Tom Koester, assistant attorney general in charge of our natural resources section. I explained to him the nature of your request and showed him the nautical chart of the "Alaska Peninsula and Aleutian Islands to Segum Pass" which was presented to the Senate Community and Regional Affairs Committee on February 21. The method of determining Alaska's Territorial Sea is currently a matter of litigation between the state and the federal government in the U.S. Supreme Court. United States v. Alaska, No. 84 Original. Although Togiak Bay is not at issue in the litigation, Tom told me that the state's position in the suit would result in drawing the state's offshore boundary line south of the islands at the mouth of Togiak Bay. The water in Togiak Bay and between the bay and the islands (Hagemester Island, Walrus Islands, and Round Island) would therefore all be within Alaskan jurisdiction. Because we do not have complete background data and, of course, do not know what the outcome of the lawsuit before the U.S. Supreme Court will be, this position as it relates to Togiak Bay is

Senator Edna DeVries, Chairman
Community & Regional Affairs Committee
Alaska State Legislature

February 25, 1985
Page #2

not certain, although it is the state's position.

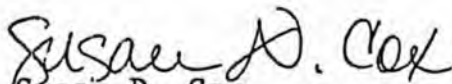
I am sorry that there is no precise answer to these questions. The definition of a bay and the offshore boundaries of the state are matters for experts and subject to great dispute. It should be noted that the Territorial Sea and Contiguous Zone are concepts that were designed for the regulation of shipping. It is not impossible, and indeed not all that uncommon, for a municipality to define its boundaries without regard to the Territorial Sea lines.

Additionally, you asked if there are legal ramifications of consequence to annexing part of a physical structure while a remaining section of the structure remains unannexed. Without having further information, this is a difficult question to answer. As I understand it, the structure in question is a fish processing operation with a dock extending into the water and a plant on the shore, above the high tide line. The portion of the dock projecting into Togiak Bay below the high tide line will be subject to the jurisdiction of the City and, in that sense, there will be legal ramifications for that operation (e.g., local taxation, ordinances, etc.). However, I do not view the annexation of part of a structure as a legal obstacle to the entire annexation.

Please contact me if you have any further questions.

Sincerely yours,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By: 
Susan D. Cox
Assistant Attorney General

SDC/pjg

cc: Hon. Peter Goll
House of Representatives

Eric Meyers
Rep. Adelheid Herrmann's Office
House of Representatives

Dan Bockhorst
DCRA -- Municipal & Regional
Assistance Division



Official Business

Alaska State Legislature

Senate

Committee on Community and Regional Affairs

Senator Edna DeVries, Chairman

Members

Senator Ferguson, Vice Chairman

Senator Coghill

Senator Sturgulewski

Senator V. Fischer

Pouch V

Juneau, Alaska 99811

February 22, 1985

To: Attorney General
Attn: Susan Cox

From: Senator Edna DeVries, Chairman *Edna*
Community and Regional Affairs Committee

Subj: Opinion re: Togiak Bay proposed annexation

I wanted to clarify the questions that I wish answered for the Committee in connection with our decision regarding the above subject.

As pertains to Togiak Bay and the proposed annexation:

- 1) Where is the boundary line for state and/or local jurisdiction?
- 2) Where is the boundary line for the Territorial Sea and Contiguous Zone?
- 3) What jurisdiction has authority over the above defined water areas for purposes of public health and safety?
- 4) Are there legal ramifications of consequence to annexing a part of a physical structure while the remaining section of the structure remains unannexed?

It is necessary that I have the Dept of Law opinion on this matter by Tuesday morning, February 26 prior to Senate Session so that I may call the Committee back together to make a final decision in time to meet the legal deadline per AS 29.68.010.

Introduced: 2/22/85
Referred: Community and Regional Affairs

X-tra for public

1 IN THE SENATE

BY THE COMMUNITY AND
REGIONAL AFFAIRS COMMITTEE

2 SENATE JOINT RESOLUTION NO. 17

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 Disapproving the recommendation of the
6 Local Boundary Commission for annexation
7 of territory to the City of Fairbanks.

8 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 WHEREAS, under art. X, sec. 12, Constitution of the State of Alaska,
10 the Local Boundary Commission has presented to the legislature its recom-
11 mendation number one dated January 23, 1985, entitled "Recommendation for
12 the Annexation of Territory to the City of Fairbanks"; and

13 WHEREAS a recommendation of the Local Boundary Commission presented to
14 the legislature becomes effective 45 days after presentation or at the end
15 of the session, whichever is earlier, unless disapproved by a resolution
16 concurred in by the majority of the members of each house;

17 BE IT RESOLVED by the Alaska State Legislature that recommendation
18 number one of the Local Boundary Commission dated January 23, 1985, and
19 entitled "Recommendation for the Annexation of Territory to the City of
20 Fairbanks" is disapproved.

February 15, 1985

James M. Hackett
401 Eleventh Avenue
Fairbanks, Alaska
99701

Edna Devries
Chairman, Senate
Community and Regional Affairs
Capitol, Room 427
Pouch V, Juneau, AK 99811
(Interdepartmental Mail Stop: 3100)
465-4989

Dear Ms. Devries:

WISE AREA HAS BEEN SINGLED OUT

Dennis Wise believes that the City of Fairbanks has singled out the area containing his property for treatment different than other similarly situated areas outside present municipal boundaries.

Historically the City of Fairbanks has not aggressively sought annexation outside its established municipal boundaries without the agreement of the property owners to be annexed. For example, the City of Fairbanks has not sought direct legislative annexation of the highly developed College, Alaska area contiguous to the west of the city's boundaries. This area has developed rapidly and extensively over the last twenty years, yet the City has never sought local action or direct legislative annexation of this area, which is urban in character, and substantially more developed than the area in and around the Wise property.

The Tanana Valley Fair Grounds, the site north of College Road which hosted the State Fair this past August, requested City of Fairbanks utility services years ago. The City refused to extend service. The fair grounds have developed over the years. The City has never sought to annex this area by either local action or direct legislative action either.

ORDINANCE 4395

On February 11, 1985, the City of Fairbanks adopted City Ordinance No. 4395 as amended. This annexation ordinance involves more than eighty (80) acres immediately south of the Wise property recommended for annexation. The City has elected to annex this other property in the same area by way of local action annexation (19 AAC 10.630 through 19 AAC 10.730), which method requires a municipal election, and the affirmative vote of a majority of the registered voters in the area to be annexed before the annexation can proceed to the LBC.

There is no sound public policy reason justifying the City's proceeding in two separate and distinct annexation methods for similarly situated property. The City elected to proceed by direct legislative action (19 AAC 10.450 through 19 AAC 10.620) to annex the area encompassing the Wise property to be developed under City Ordinance No. 4351 adopted in late August 1984. This method precludes affected property owners from voting on the question of annexation.

The one example of direct legislative annexation that has been approved by the Alaska Supreme Court was in the general area surrounding Valdez following the disastrous earthquake and flood disaster that struck that city. There direct legislative annexation was warranted, and needed. See Port Valdez Co. v. City of Valdez, 522 P.2d 1147 (Alaska 1974). Given the history of the City of Fairbanks in never seeking direct legislative annexation before for more developed areas contiguous to the City, and given the fact that the City is presently seeking annexation of property in the same area by local action, it is difficult to believe that the LBC did its duty under regulation (19 AAC 10.600) and considered other alternative methods of annexation, such as by local action (19 AAC 10.630--19 AAC 10.730) or by step annexation (19 AAC 10.735--19 AAC 10.790), instead of by direct legislative annexation. A step annexation would make more sense here because of the phased-in development plans for Mr. Wise's project. The City and the LBC both are aware of Mr. Wise's phased-in development plans over a period of time for his property.

LBC'S RECORDS

By statute the LBC is required to keep minutes and records of its deliberations and decision making, so that its actions are reviewable. Under the appellate rules, the LBC is not required to furnish the court with its complete records and files until mid-March 1985, after the time the Legislature has to decide whether to go along with the LBC's decision.

If, as Mr. Wise suspects, the records and minutes of the LBC showing its deliberations and decision making are inadequate and do not comply with statute, then Mr. Wise and the other people in the area annexed by direct legislative action will have been subjected to the direct intervention of the state, when the two alternative methods of annexation--local action and step annexation--would have given these people the right to vote and participate in an event directly involving them and their properties.

In the area outside Fairbanks, residents are independent and individualistic property owners, in the tradition of so many other individual property owners in this vast state. Giving these residents and property owners a say in their own destiny by rejecting the direct legislative annexation approach is consistent with the independent views of the property owners outside Fairbanks, and is consistent with the previous

history of the City, and with the City's present actions under Ordinance 4395.

COMMENTS BY LBC STAFF

The City did not file its annexation petition until late in the fall of 1984, making the Staff's job more difficult because of the short time frame involved. In addition, James Sanders of the LBC Staff in Anchorage was replaced by Gene Kane, a gentleman handling his first annexation matter. This replacement of Staff caused further delay.

The LBC Staff received prefiled testimony shortly before the meeting of the LBC in Fairbanks on November 31, 1984. According to a comment made by a LBC Staff member in Fairbanks, the recommendation of the Staff for annexation may well have been different if the Staff had received the prefiled testimony earlier. This prefiled testimony was filed by Edward J. Eisele, William T. Shechter, and Dennis Osterdock. Because of the lateness of the City's annexation petition, there was a relatively short time for Staff to consider this prefiled testimony thoroughly.

ERRONEOUS FACTUAL DETERMINATIONS

The LBC did not take into account the will of the people in Dennis Wise's general area.

As recently as January 1985, property owners in the Davis Road area petitioned the Fairbanks North Star Borough to extend the University Fire District to their area. At a borough-conducted election on January 10, 1984, 131 votes were cast for extending the borough's fire service, and only 10 votes were cast against extending the borough fire district.

The LBC did not adequately consider the capacity of the University Fire District, or the wishes of the residents in this general area. This heavy vote in favor of borough services as recently as January 1984 is a strong indication of residents in that area wanting borough, and not City, services.

The LBC termed this area urban in nature. The area is much less urban in nature than the College, Alaska area, and the Tanana Valley Fairgrounds area, which the City has never sought to annex.

COURT-ORDERED STAY

Superior Court Judge James R. Blair has ordered the Statement of Decision of the Local Boundary Commission (LBC) stayed nunc pro tunc (or back to) the date of January 24, 1985. This means that the decision of the LBC was stayed shortly after the LBC submitted the issue to the Legislature.

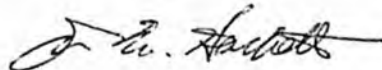
Dennis Wise believes that this stay of the underlying LBC decision may make action by the Legislature unnecessary at this time. However,

the problem is that if his belief is incorrect, then the failure of the Legislature to act in a timely fashion to deny the LBC's direct legislative annexation will permit the City of Fairbanks and the state to argue that the annexation has been approved by the Legislature's failure to have acted within the statutory 45 day period.

Mr. Wise had to request the stay from the court when he did, because the terms of Appellate Rule 603(a)(2) of the State of Alaska require a party seeking a stay of an administrative decision to do so within 30 days from receipt of the decision, or the party loses the opportunity to obtain a stay.

Mr. Wise respectfully requests the Legislature to disapprove the LBC's recommended direct legislative annexation under the circumstances.

Sincerely,



James M. Hackett
Attorney for Dennis Wise

JMH:mb

- Enclosures:
1. Ordinance No. 4351;
 2. Ordinance No. 4395, as amended
 3. Prefiled Testimony of Edward J. Eisele
 4. Prefiled Testimony of William T. Shechter
 5. Prefiled Testimony of Dennis Osterdock
 6. Order Nunc Pro Tunc
 7. Transcript of Borough residents' comments (in January 1985 before the APUC)

JAMES M. HACKETT, INC.
401 Eleventh Avenue
Fairbanks, Alaska 99701
(907) 456-3626

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
FOURTH JUDICIAL DISTRICT

DENNIS B. WISE and WISE
ENTERPRISES, INC., a domestic
corporation,

Appellant,

vs.

STATE OF ALASKA LOCAL
BOUNDARY COMMISSION,

Appellee.

No. 4FA-85-60 Civil

ORDER

Being fully advised upon the premises, and upon Appellant's motion to approve Supersedeas Bond nunc pro tunc,

IT IS ORDERED that Appellant's Supersedeas Bond on Appeal is approved filed, nunc pro tunc, to January 24, 1985;

IT IS FURTHER ORDERED that the Statement of Decision of the State of Alaska Local Boundary Commission dated December 1, 1984, which decision was mailed on or about January 2, 1985, is stayed pending appeal herein pursuant to Appellate Rule 603(a)(2) of the State of Alaska.

DATED at Fairbanks, Alaska this 5 day of Feb,
1985.

James R. Blair
Honorable James R. Blair
Superior Court Judge

I certify that on 2-7-85
copies of this form were sent to:
CLERK: AG

Hackett
AG

JG
1/25/85
Blair

Introduced by: City Manager
First Reading: August 6, 1984

ORDINANCE NO. 4351

AN ORDINANCE TO ANNEX PROPERTY ADJACENT TO THE CITY BORDERED BY PEGER, DAVIS AND HILL ROADS, CONTAINING 117 ACRES, MORE OR LESS; AND SETTING AN EFFECTIVE DATE.

WHEREAS, property adjacent to the city of Fairbanks and bordered by Peger Road, Hill Road and Davis Road and containing about 117 acres is becoming more developed and would benefit by the extension of city services including water and sewer utilities to this area; and

WHEREAS, the city of Fairbanks has applied to the Alaska Public Utilities Commission to extend their service area for water and sewer utilities to this area and adjacent areas; and

WHEREAS, it is in the best interest of the Fairbanks Municipal Utilities System water and sewer department to furnish water and sewer to this area; and

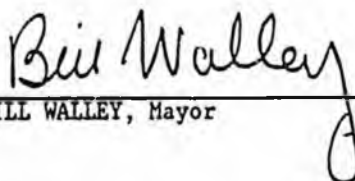
WHEREAS, some property owners in the area proposed for annexation have approached the city to request annexation; and

WHEREAS, the current and future owners of this land will benefit from such annexation.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF FAIRBANKS, ALASKA, as follows:

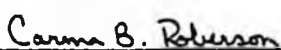
SECTION 1. That the city manager of the city of Fairbanks is hereby authorized to file a petition on behalf of the city of Fairbanks with the State of Alaska Boundary Commission to annex the property described in Exhibit A and shown on the map, Exhibit B, to the city of Fairbanks under the provision of 19 AAC 10.450 through 10.620.

SECTION 2. That the effective date of this ordinance shall be the 25th day of August, 1984.


BILL WALLEY, Mayor

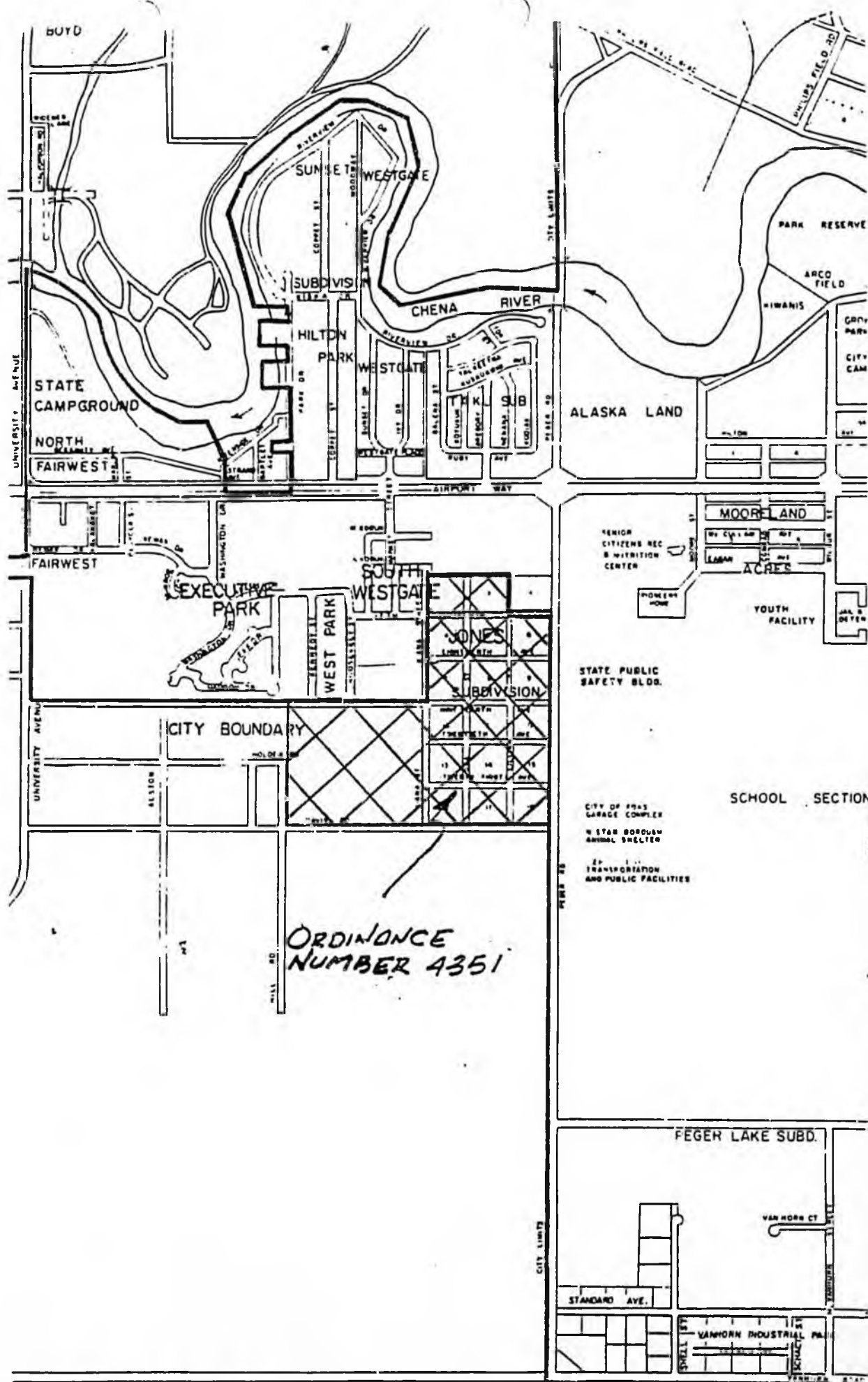
ADOPTED: August 20, 1984

ATTEST:


CARMA B. ROBERSON, City Clerk

The SW 1/4 of the NE 1/4 of Section 17, T1S, T1W, F.M. and the EM Jones Homestead Subdivision recorded in the Fairbanks District Recorders Office as Instrument Number 156.156 on May 25, 1955. The exceptions to these contiguous areas are as follows; that portion of Davis Road that lies within these areas and all of Block 3 of the same E.M. Jones Homestead Subdivision.

This description encompasses an area of 117 acres.



ORDINANCE
NUMBER 4351

EXHIBIT "B"

Introduced by: City Manager
First Reading: January 21, 1985

ORDINANCE NO. 4395, As Amended

AN ORDINANCE TO ANNEX PROPERTY SOUTH OF DAVIS ROAD
AND WEST OF PEGER ROAD CONTAINING 83 ACRES, MORE
OR LESS; AND SETTING AN EFFECTIVE DATE.

WHEREAS, individuals who own property in the following area have written a letter to the city requesting the city annex the following described property:

The north $\frac{1}{2}$ of the SE $\frac{1}{4}$ of Section 17, T1S, R1W, F.M., and all the remaining right-of-way of Davis Road within the south $\frac{1}{2}$ of the NE $\frac{1}{4}$ of Section 17, T1S, R1W, F.M., containing 83 acres, more or less.

and WHEREAS, under the provisions of 19 AAC 10.630 through 10.730, there are provisions authorizing the holding of an election by residents of an area to be annexed to determine whether the area should be annexed into the city; and

WHEREAS, 19 AAC 10.470(a)(1) permits the governing body of a municipality whose boundaries are to be changed to initiate such a petition.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF FAIRBANKS, ALASKA, as follows:

SECTION 1. That the city of Fairbanks agrees to an ordinance annexing property south of Davis Road and west of Peger Road, more particularly described as

The north $\frac{1}{2}$ of the SE $\frac{1}{4}$ of Section 17, T1S, R1W, F.M., and all the remaining right-of-way of Davis Road within the south $\frac{1}{2}$ of the NE $\frac{1}{4}$ of Section 17, T1S, R1W, F.M., containing 83 acres, more or less.

This area is contiguous to the city of Fairbanks. Annexation will be on the following terms and conditions.

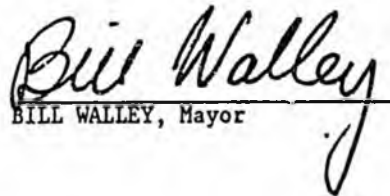
- a. The areas shall share equally on all current obligations of the city.
- b. The city will provide general services such as are provided in other sections of the city.
- c. That no taxes for municipal services should be levied by the city in the area to be annexed in the calendar year 1985. Property annexed shall continue to be liable for taxes levied by the Fairbanks North Star Borough during 1985. The property annexed shall be liable for normal city taxes beginning January 1, 1986.

SECTION 2. The city council of the city of Fairbanks hereby petitions that the above area be annexed. Upon approval of this ordinance, the city clerk shall forward a copy of it to the Alaska Department of Community and Regional Affairs, and a petition and other documents required by 19 AAC 10.630 through 10.730.

Upon approval by the Department of Community and Regional Affairs, the city will conduct an election of all registered voters in the area to be annexed.

Within ten days after the election, the city council shall meet and canvas votes cast. If the majority of the votes are for annexation, the city council may issue a certification of such election which shall be filed with the city clerk and a copy forwarded to the Department of Regional and Community Affairs. The annexation shall be effective upon the filing of this certificate.

SECTION 3. That the effective date of this ordinance shall be the 16th day of February, 1985.


BILL WALLEY, Mayor

ADOPTED: February 11, 1985

ATTEST:


CARMA B. ROBERSON, City Clerk

BEFORE THE STATE OF ALASKA
DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS

IN THE MATTER OF the)
Annexation by the City of)
Fairbanks, Alaska, of 111)
acres bounded by Peger Road,)
Davis Road and Hill Road.)

PRE-FILED TESTIMONY OF EDWARD J. EISELE

- Q. What is your name and address?
- A. My name is Edward J. Eisele. I reside at 4034 Birch Lane, Fairbanks, Alaska.
- Q. Are you involved with the University Fire District, a fire service area within the Fairbanks North Star Borough.
- A. Yes. I am chairman of the University Fire District.
- Q. How did the University Fire District come to serve the Holden Road area, and the area in which Wise Enterprises, Inc. is constructing multi-residential housing?
- A. Many residents living in the Davis Road area petitioned the Borough (FNSB) to have their area (which includes the Wise Enterprises, Inc. area) annexed into the University Fire District.
- Q. What percentage of land owners and residents in that area petitioned?
- A. Landowners and residents, representing well in excess of fifty percent (50%) of the property owners in the area, petitioned FNSB to be annexed to our University Fire District. Copies of seventy-nine (79) pages of landowners' petitions to FNSB are attached as Exhibit A.
- Q. Was an FNSB-conducted election held on the question of annexation?
- A. Yes, a special borough-conducted election was held on January

10, 1984. A copy of the official ballot is attached as Exhibit

B. The question to be voted on was the following:

"Shall the University Fire Service
Area be expanded to exercise fire
protection powers within the indicated
area?"

Q. How many borough residents voted on January 10, 1984?

A. One hundred forty-three (143) borough residents voted on
the question.

Q. What were the results?

A. The results were one-hundred thirty-one (131) votes for the
annexation, ten (10) votes against, and two (2) questioned
votes. A copy of the FNSB "Certificate of Election Return"
form is attached as Exhibit C. The voters overwhelmingly
voted for annexation.

DATED at Fairbanks, Alaska this _____ day of November, 1984.

Edward J. Eisele

RECEIVED



JUN 11 1984

UNIVERSITY OF ALASKA, FAIRBANKS
Fairbanks, Alaska 99701

Office of Dennis Wise
Wise Enterprises

May 25, 1984

F.N.S.B.
P.O. Box 1267
Fairbanks, Alaska 99707

Ref: Development Review - 19th & Davis

Attn: James Lee, Senior Planner

I have reviewed this development with George Gordon, President of College Utilities Corp., with regards to distribution of fire hydrants, and with Lee Davis, Deputy State Fire Marshal.

I am pleased with the initial development plans. I will be working with the Fire Marshal's Office to insure strict compliance with official building and life safety codes.

Fire hydrant distribution seems adequate for the complex.

I intend to insure adequate access for the fire department completely around each building - especially with regards to rescue potential and not having obstructions.

Please keep me advised during the progression of this development as we are responsible for fire protection.

Sincerely,

A handwritten signature in cursive script, appearing to read "W. Shechter".

William Shechter, Fire Chief, UAF

cc: Ed Eisele, Chairman, Univ. Fire Service District

UNIVERSITY OF ALASKA

MAY 25 10:32

RECEIVED

Fold Ballot To This Line

No.

SPECIAL ELECTION
PROPOSED ANNEXATION TO UNIVERSITY FIRE SERVICE AREA
FAIRBANKS NORTH STAR BOROUGH ALASKA
JANUARY 10, 1984

OFFICIAL BALLOT

FAIRBANKS NORTH STAR BOROUGH
ALASKA

Mark only with cross marks, "X" marks, check or plus signs.
Marks must be inside the square.

If you spoil your ballot, you may return it to the election judge
and receive another ballot. Your spoiled ballot will be
immediately voided.

Erasures and corrections shall invalidate only that part of the
ballot in which they appear.

A mark in the square opposite the word "Yes" shall be recorded as
a vote for the proposition and a mark in the square opposite the
word "No" shall be recorded as a vote against the proposition.

PROPOSITION

"Shall the University Fire Service Area be expanded to
exercise fire protection powers within the indicated
area?"

YES

NO

Exhibit B

sample

Pursuant to FNSB 14.04.021, we the undersigned real property owners, being in excess of 50% of the real property owners whose properties lie within the boundaries of the proposed service area, hereby petition the Fairbanks North Star Borough Assembly for the annexation to the University Fire Service Area perform the following governmental services: fire protection. The area to be included in the service area is (see attached map).

PRINTED NAME	SIGNATURE	ADDRESS
✓ Kate Levit	Kate Levit	54750 3rd St.
^{Buyers} ✓ Scott L Alexander	Scott L Alexander	4th & Water
^{N. & W. 1/4} ✓ Vera McCabe	Vera McCabe	1 Mile Dale Road
✓ Donald McCabe	Donald McCabe	1 Mi Dale Rd.
✓ Madeline Sheepp	Madeline Sheepp	4712 2nd St.
✓ ROBERT REICHMANN	Robert Reichmann	4711 3RD
✓ Richard W Fields	Richard W Fields	4711 3RD
✓ Toni Fields	Toni Fields	4711 3rd St
✓ Mary Williams	Mary Williams	4735 5th St.
✓ Bill C Williams	Bill C Williams	4735 5th St.
✓ Mary E. Binkley	Mary E. Binkley	PO Box 8061 Fairbanks 99706
✓ MARY F. PIKE	Mary F. Pike	PO Box 60412
✓ LLOYD H. PIKE	Lloyd H. Pike	PO Box 60412
✓ Gene B Davis	Gene B Davis	5850 Airport Way
✓ JIM B DAVIS	Jim B Davis	5880 AIRPORT WAY
✓ PIKE'S LANDING	Pike's Landing	Box 1235 Fairbanks
✓ PIKE'S LANDING	Pike's Landing	4.5 mile AIRPORT
✓ DELIA I. PRUNS	Delia I. Pruns	Box 1735 Fairbanks 4.5 mi Airport Road
✓ Truman Jackson	Truman Jackson	1443 Moore St
✓ Carolyn Jackson	Carolyn Jackson	1443 Moore St
✓ Sam Jink Binkley	Sam Jink Binkley	Box 80610 Fairbanks 99706
✓ College Utilities Corp	College Utilities Corp	PO Box 80907 Fairbanks 99708
FAIRBANKS UTILITIES	FAIRBANKS UTILITIES	PO Box 60412
✓ Rita R Carlson	Rita R Carlson	5894 Airport Rd
✓ DALE C. CARLSON	Dale C. Carlson	5894 Airport Rd
- KORNFIELD TRAINING CENTER	Kornfield Training Center	P.O. Box 60134 Fairbanks 99706
✓ SUSAN M NEFF	Susan M Neff	355 HUBBARD RD

3/83

CERTIFICATE OF ELECTION RETURNS
Fairbanks North Star Borough
Special Election - January 10, 1984

Annexation to University Fire Service Area

We, the undersigned, hereby certify that the following is a true and correct return of all votes cast at the Special Election in Annexation to University Fire Service Area, of Fairbanks North Star Borough on the 10 day of January, 1984 and the total number of persons voting thereat was One hundred forty three (words) 143 (figures) of which the following votes were tallied:

Proposition 1

Yes 131

No 10

Questioned Ballots 2

Dated this 13th day of January, 1984

Barbara J. Tisdale Chairman

Joseph E. ... Judge

Therese Wash ... Judge

Bette L. Rowlett Judge

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BEFORE THE STATE OF ALASKA
DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS

IN THE MATTER OF the)
Annexation by the City of)
Fairbanks, Alaska, of 111)
acres bounded by Peger Road,)
Davis Road and Hill Road.)

PRE-FILED TESTIMONY OF WILLIAM T. SHECHTER

- Q. What is your name and address?
- A. My name is William T. Shechter. I reside at 4910 Palo Verde Drive, Fairbanks, Alaska.
- Q. What is your occupation?
- A. I am the Fire Chief for the University of Alaska Fire Department at Fairbanks, Alaska.
- Q. Are you involved with the University Fire District?
- A. Yes, our department is involved with this fire service area. The University Fire District is a fire service area within the Fairbanks North Star Borough (FNSB). The area of the University Fire District covers an approximate five (5) mile radius from the University of Fairbanks campus, a total area of approximately twenty (20) square miles.
- Q. Does the University Fire District presently serve the area in which Wise Enterprises, Inc. is constructing two multi-unit buildings consisting of 71 units each, and the Davis Road area?
- A. Yes, the University Fire District presently serves that area.
- Q. What is the ISO?
- A. ISO, or the Insurance Services Office, is an advisory body of insurance company member organizations which establish

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FAIRBANKS, ALASKA 99708
(907) 479-3762 CH 479-3222



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fire rate classifications in the area. The fire classes established by the ISO are a valuable evaluation tool for determining fire rates, but competition and any non-member insurance company can cause these classes not to be followed. For example, State Farm Insurance is not a member of ISO. The ISO has established fire classes 4, 5, and 6 near the University. State Farm Insurance combines all these areas into a class 4 fire area because of the confidence that State Farm has in the capabilities of the University Fire District.

The ISO does not regulate an insurance company's rates. The State of Alaska Commissioner of Insurance does that. Companies have to file their rates with the State of Alaska Division of Insurance.

Q. What is the present ISO fire classification for that area of the University Fire District where there are no hydrants located?

A. That classification is an ISO Class 8. This includes the Wise Enterprises, Inc. area presently which has no water service into the area yet. This classification is the classification without water no matter which fire department services the area.

Class 8 is indicative of a good fire department in an area which can produce 200 gallons of water for an interrupted period of 20 minutes, or a total of 4000 gallons of water. This classification is predominantly for residential purposes, and does not generally include industrial and commercial areas.

Q. Does the ISO classification rating within the University Fire District change when water service is provided and hydrants are installed?

COLLEGE UTILITIES CORP.
P.O. BOX 2248
COLLEGE STATION
FAIRBANKS, ALASKA 99708
(907) 479-2100 OR 479-2528



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A. Yes, the classification changes from an ISO class 8 to an ISO class 5 classification. In those areas where hydrants are installed within the University Fire District, the ISO rating is a class 5. The area where Wise Enterprises, Inc. is building its multi-residential structures will be reclassified as an ISO class 5 as soon as a water system is provided to the area.

Q. Has there been a recent ISO inspection within the University Fire District area?

A. Yes. The fire service area was evaluated last August by ISO, and I am hopeful that the fire district will be reclassified to a class 4 as a result of that inspection.

Q. Do you see any practical significant difference between an ISO class 2 rating which the City of Fairbanks has, and an ISO class 5 (or 4) rating which the Wise Enterprises, Inc. property will have following the installation of hydrants?

A. No.

Q. Why not?

A. First, the University Fire District itself has good personnel and equipment. Our fire team can respond to the west end of Davis Road quicker than the City's fire personnel. In terms of distance, our personnel and equipment are just as close, if not closer, than the City's fire personnel to the Wise Enterprises, Inc. property and the Davis road area.

Secondly, our fire service area has an agreement with the State of Alaska Fairbanks International Airport Fire Department, which has the largest tanker in the area, having a capacity of 5000 gallons. The University Fire station is in instantaneous radio contact with the Fairbanks International Airport Fire Department, each of us tuning in to the mutual

COLLEGE UTILITIES CORP.
PO BOX 1807
COLLEGE STATION
FAIRBANKS ALASKA 99708
TELE 479 2100 OR 479 2223



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aid radio frequency and having bay-station to bay-station communication equipment. The airport fire department can respond promptly to the Davis Road area with their 5000 gallon tanker, in addition to our personnel and capacities.

Thirdly, the maximum fire flow requirement in terms of gallons of flow minute required by the ISO in that area, is 3500 gallon a minute. College Utilities Corporation (CUC), a water and sewer utility in the area, presently has a capacity of approximately 2000 gallons a minute. My understanding is that CUC has plans to hook-up to a line going to the International Airport distribution grid, thereby providing CUC with another 1500 gallon per minute capacity. There will be a water fire flow source from CUC, then, to meet the ISO maximum requirement of 3500 gallons per minute of fire flow. My further understanding is that a fire flow capacity can exceed what the existing hydrant system can handle. My understanding also is that CUC's planned hydrant installation will be able to handle CUC's planned 3500 fire flow gallons per minute.

Q. Are existing medical services provided by the University Fire District to that area?

A. Yes. When our station receives a call, we automatically dispatch our EM IIs to the site. These are persons authorized to administer intervenous (IV) fluids, and certain drugs.

I have been involved in fire services at the University of Alaska for 15 years. During the last 10 years approximately, the City of Fairbanks Fire Department and our fire department have had a working agreement, whereby the City dispatches a paramedic to our area whenever a code 5 ambulance call is received. Code 5 calls are the extremely serious life threatening situations, such as a heart attack, poisoning,

etc.

COLLEGE UTILITIES CORP.
P.O. BOX 82888
COLLEGE STATION
FAIRBANKS, ALASKA 99701
1227/478 2122 OR 478 2228



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As previously indicated, the whole fire district encompasses a 5 mile radius from the campus, a total area of approximately twenty (20) square miles. We respond annually to approximately 800 calls, which include fire and ambulance calls. Out of these calls, about 20 times a year we requested a paramedic from the city when an initial call came in; and in about 60-70% of those times when we called a paramedic, a paramedic did in fact assist.

In my opinion, there is no reason why this working arrangement between the City of Fairbanks and our fire department, which has developed over the last 10 years, can not continue. In the vast majority of the cases, our department's EM II personnel are sufficient to administer the necessary emergency care. In any event, the Fairbanks Memorial Hospital, with its emergency room facilities, is within minutes of the area by ambulance time and is in constant radio communications with medical personnel at the scene.

- Q. Are there law enforcement facilities in the area?
- A. Yes. The Alaska State Troopers' dispatch headquarters is quite close to this area, appreciably closer than the City of Fairbanks police. The Troopers' headquarters is located just across Peger Road. The Alaska State Troopers presently service the developer's area.

DATED at Fairbanks, Alaska this 19 day of November, 1984.


William T. Shechter

COLLEGE UTILITIES CORP.
PO BOX 8349
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FAIRBANKS ALASKA 99703
(907) 479-3112 OR 479-2628



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good water and sewer service in a business-like manner, unaffected by political considerations. CUC has provided us with definite construction figures, based upon CUC's past construction history and upon the terms of its water and sewer tariffs approved by the APUC, outlining the costs of construction associated with CUC's providing water and sewer service to our multi-unit property. In comparison, FMUS has provided us with no precise construction costs if FMUS does the work. FMUS has advised that any water and sewer systems that are constructed on our property must be done in conformity with FMUS' (and the City's) standards, before any such systems will be approved by FMUS. FMUS has failed to give any such information upon which to make an intelligent, business-like decision, given the fact that because of the rising water table in the Fairbanks area each year, sometime in June normally, that construction of any sewer and water extension systems to our property must be completed during the month of May before the water table rises.

Secondly, we believe that FMUS's utility policies and rates are subject to political considerations and existing revenue funds received by the City, and are therefore more unpredictable than CUC's tariffed rates. We understand that CUC is economically regulated by the APUC. As such, we feel more comfortable being served by CUC, because we believe APUC regulation ensures that CUC's rates will have to be shown to be just and reasonable. Additionally, we believe that APUC regulation will cause CUC's rates to be more stable and predictable than those of FMUS, whose could be subject to political considerations.

Thirdly, we believe that allowing extension of FMUS' utility services to our property will subject us to further

COLLEGE UTILITIES CORP.
P.O. BOX 82928
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FAIRBANKS, ALASKA 99708
1977 479-2750 OR 479-2658



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unwarranted City requirements and interference, which will in turn affect the economic profitability and effectiveness of our business operations.

Fourthly, we do not believe that FMUS enjoys a reputation for running cost-effective utility operations, which opinion we believe is justified. Because of the fact that FMUS has been operating both its existing water and sewer operations at a loss (and at a substantial loss in the case of its sewer operations), we are concerned that FMUS would seek to increase its rates dramatically sometime in the future if the political climate warranted it.

Fifthly, Wise Enterprises, Inc. is part of the private sector, and we are sympathetic with CUC, as another private sector corporation (recognizing of course, that CUC is regulated by the APUC and in that sense is a public corporation). Our understanding is that CUC came into being because FMUS would not provide water and sewer services outside the City's boundaries, in the areas which CUC elected to serve, and which CUC is capable of serving. We believe CUC is capable of providing our property with good water and sewer service and wholeheartedly support CUC's applications before the APUC.

Q. Are you aware of any differences between ISO classes relating fire flow rates between the area within the City of Fairbanks and the University Fire District area?

A. Yes. My understanding is that the City of Fairbanks has an ISO class 2 rating, and that the University Fire District area, which includes the area of our present development, is an ISO class 8. My further understanding is that the University Fire District will be reclassified to an ISO class 5 in our development area, as soon as a fire hydrant water

COLLEGE UTILITIES CORP.
P.O. BOX 80228
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FAIRBANKS, ALASKA 99708
(907) 479-2700 OR 479-2568



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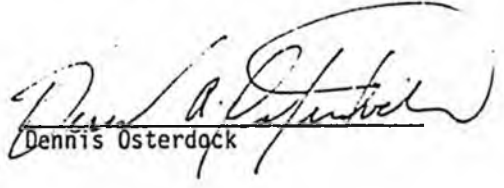
system is installed.

Q. Is there any significant difference to Wise Enterprises, Inc., as far as its fire insurance premium rates are concerned, between an ISO class 2 and an ISO class 5 rating?

A. No. Because of the volume of fire insurance coverage Wise Enterprises, Inc. requires, our company is able to negotiate favorable fire insurance premium rates from fire insurance carriers, regardless of whether our present multiple residential structures are located in an ISO class 2 or an ISO class 5 area.

As a matter of good business practice, Wise Enterprises, Inc. seeks and obtains the most extensive fire insurance coverage available for its projects most economically premium level.

DATED at Fairbanks, Alaska this 19th day of November, 1984.


Dennis Osterdock

COLLEGE UTILITIES CORP.
P.O. BOX 80228
COLLEGE STATION
FAIRBANKS, ALASKA 99708
(907) 479-2760 OR 479-2624



AUG 31 1984

Introduced by: City Manager
First Reading: August 6, 1984

ORDINANCE NO. 4351

AN ORDINANCE TO ANNEX PROPERTY ADJACENT TO THE CITY BORDERED BY PEGER, DAVIS AND HILL ROADS, CONTAINING 117 ACRES, MORE OR LESS; AND SETTING AN EFFECTIVE DATE.

WHEREAS, property adjacent to the city of Fairbanks and bordered by Peger Road, Hill Road and Davis Road and containing about 117 acres is becoming more developed and would benefit by the extension of city services including water and sewer utilities to this area; and

WHEREAS, the city of Fairbanks has applied to the Alaska Public Utilities Commission to extend their service area for water and sewer utilities to this area and adjacent areas; and

WHEREAS, it is in the best interest of the Fairbanks Municipal Utilities System water and sewer department to furnish water and sewer to this area; and

WHEREAS, some property owners in the area proposed for annexation have approached the city to request annexation; and

WHEREAS, the current and future owners of this land will benefit from such annexation.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF FAIRBANKS, ALASKA, as follows:

SECTION 1. That the city manager of the city of Fairbanks is hereby authorized to file a petition on behalf of the city of Fairbanks with the State of Alaska Boundary Commission to annex the property described in Exhibit A and shown on the map, Exhibit B, to the city of Fairbanks under the provision of 19 AAC 10.450 through 10.620.

SECTION 2. That the effective date of this ordinance shall be the 25th day of August, 1984.

BILL WALLEY, Mayor

ADOPTED:

ATTEST:

CARMA B. ROBERSON, City Clerk

1 MR. JACKSON: Thank you. I suspect that hearing from
2 the parties would probably last two or three days, and for
3 that reason, you probably don't want to sit through all of
4 that. You might want to listen to today's testimony and
5 then come back this evening at 7:00, if you want to come
6 back tomorrow morning when we start, which will be probably
7 be earlier than ten, you can certainly come and testify
8 then, also. I will endeavor to gain as much public testi-
9 mony as we can, because we think it's important what you
10 want. And I will do my best to work in the testimony of
11 yourself, or any other witness who shows up. That will
12 have to be done so it fits in with the other witnesses, and
13 does not disrupt the hearing too much. But, if you'd like
14 to wait, we will try to work you in at a later time.

15 TOM LINCOLN

16 testified as follows:

17 (Oath administered.)

18 COURT REPORTER: State your name.

19 MR. LINCOLN: My name is Tom Lincoln, I live at 2509
20 Alston Road. I live on the south side of Davis Road and I
21 have a total of eighteen acres. On my own behalf, in my
22 own view, I don't want either one, truthfully, but if I
23 have to take one, I'd rather have College Utilities
24 because, the way I look at it, along with the City is going
25 to come annexation. They come along, for years they say

1 they can't give you no services unless you're annexed into
2 the City. Now, all of a sudden, somebody else is
3 interested in servicing the area and they find it in their
4 power to come across and say, "Oh, well, we can service
5 you." I don't really understand how that works out, you
6 know, when they couldn't do it before. They're going to
7 add more sewers and stuff on the line, the City is, and
8 their sewer system that goes along Davis Road now is always
9 having pumps and everything changed in it. It smells
10 terrible, and they've had a good five years, at least, to
11 fix it and they don't seem to be able to come out and fix
12 it. So, on my own part, I really have no use for either
13 one at the present time. I can see where there, I don't
14 see where it'll benefit them to take us in, other than for
15 a tax base, and to keep the other one--the other system
16 out--and that's mainly.....

17 MR. JACKSON: Fine. Mr. Hackett, do you have any
18 questions?

19 BY MR. HACKETT:

20 Q No. Just a clarification. The tax base -- you mean
21 as far as the City is concerned?

22 A Yeah. I can see where, if they do take us in, on my
23 side of the street, there's not that many people liv-
24 ing anyway. South Alston -- North Alston's a little
25 different. You've got more families--that area's

1 built up more, but like on my side, I can't see where
2 it would benefit me, and they were never interested in
3 the area before. College Utilities showed any interest
4 it might -- I hear College Utilities costs more out
5 there, well maybe they do, but unless you've got two
6 people competing, there's no incentive for the other
7 one to be less anyway, that I can see. If one out-
8 fit's got the complete monopoly on it, and that's what
9 it's going to turn into.

10 Q Mr. Lincoln, you said the City has shown no interest
11 for five years, and there's been a problem with the
12 one sewer.....

13 A Your lift stations. There on Davis, the one on Van
14 Horn, it seems like they're always in there pulling
15 the pumps out. You go by there, you swear somebody
16 done something inside your car. I mean it stinks--
17 bad. So if they do take it in and they start using
18 them sewers and stuff, are they going to fix them lift
19 stations, and then who gets stuck with the repair of
20 the lift stations that takes care of the whole city.

21 Q To your knowledge, have either you or your neighbors
22 complained about that situation to the city?

23 A I imagine. I haven't. I imagine the ones on the
24 corner there, that live there, I don't know how --
25 they've got strong stomachs if they can live with that

1 in the house. I don't know.....

2 Q All right. But are you saying this problem has been
3 there for substantially.....

4 A For a substantial period of time. I imagine the City
5 could tell you when they put that station in, but
6 those -- I also believe that one over there on by
7 Sunset Strip, but I know they have, that Davis Road
8 has been in and out quite a bit, and Van Horn has been
9 in and out quite a bit.

10 Q Thanks.

11 MR: JACKSON: Mr. Smith?

12 MR. SMITH: No questions.

13 BY MR. JACKSON:

14 Q Let me just ask you briefly. Do you know, and perhaps
15 you could show me on the map exactly where you live,
16 or do you know if the area which your plot, that you
17 live in, has been applied for by both of the Util-
18 ities?

19 A That I don't really know.

20 Q Okay, good.

21 A I live on the south side of Davis.....

22 Q Yes, yes, I know where Mr. Lincoln lived.....

23 A Both utilities. For both water and sewer.

24 Qwould you be able to point that out on a map?

25 Q Maybe this map on the left might be the better

1 one.....

2 A This one?

3 Q No, over to the left, it's a larger scale, and the
4 Hill Road's sort of down there, Hill Road and Davis is
5 down at the bottom.

6 UNIDENTIFIED VOICE: You don't have any objection if
7 he marks it up, unless the Hearing Officer does.

8 Q Yeah, you can put a little mark there.

9 A (Indiscernible - too far from microphone)

10 Q What were your intentions regarding your property?

11 A I've been there twenty-eight years, and plan on living
12 just like I am. I don't really want to break it up,
13 you know I've heard --- I've never complained about
14 anybody else breaking out their land, or doing any-
15 thing with their land, you know, that's completely up
16 to them. I like it the way it is, and I plan to stay
17 there, but if they're going to keep, I can see now
18 where if I'm going to get assessments for sewer and
19 water and stuff like that there, that it's going to do
20 be absolutely no good. I'm going to eventually, and
21 if they take me into the City, it's going to kick my
22 taxes up more, I won't be able to just live like that
23 much longer, I'll have to develop it. And every time
24 there's development, the rest of the neighbors really
25 aren't for it, you know. I don't want to, I just

1 don't want the hassle of -- I enjoy where I'm at, I
2 enjoy the way it is and I plan on leaving it that way
3 as long as I can. As long as it keeps growing and
4 there's more and more added to it, it may not be a
5 reality too long.

6 Q Thank you, Mr. Lincoln.

7 BY MR. HACKETT:

8 Q I just have one other question. Mr. Lincoln, are you
9 aware of the fact that, for example, if College Util-
10 ities got the authorization that does not require you
11 to hook up.....

12 A To hook up, that's right.

13 Qand so, I mean, from what you're saying, if
14 College Utilities gets the authorization in the area
15 where you live, you're not required to take water and
16 sewer from College Utilities.

17 A I think I could live better with College Utilities
18 than I could with the City. College Utilities, to me,
19 if a private enterprise and they can't tell you you
20 have to hook up, you have to do this, where if the
21 City takes me in an annexes me, takes me in, first of
22 all they're liable, the annexation I know is coming
23 right behind it. But even if that doesn't, they're
24 going to have more clout, they're going to say you
25 have to hook up, you have to do this. I, really, for

1 my own personal preference, I just wouldn't -- maybe
2 College Utilities may cost more, but I think I could
3 control, have a little more input, into College
4 Utilities than I would ever have into the City.

5 Q Are you aware of the fact under the City code, that to
6 get water from the City you have to agree to annexa-
7 tion before they'll allow you to hook up.

8 A Well, that's the way it used to be. Now, on this last
9 deal, on this last annexation, they come along, they
10 says, well they've changed that.

11 Q Well, who told you they've changed that?

12 A I believe that fellow right at the end of the -- the
13 table there. And that's what I can't understand. How
14 come they can come along now, when somebody else is
15 interested in it, and say we've changed the rules.

16 Q Well, have you seen any code or ordinance or anything
17 to prove they've changed the rules?

18 A No -- no.

19 Q All right. Your understanding is, at least in the
20 past, you had to agree to annexation before you get
21 water from the city?

22 A That's right.

23 Q And, when did the gentleman at the end, I think that's
24 Mr. Smith's baby.....

25 A It's been what? About two weeks ago, at the other

1 hearing?

2 MR SMITH: I think that was in the end of November.

3 A Yeah.

4 MR. SMITH: You appeared at the annexation hearings of
5 the Dennis Wise Jones Subdivision.

6 A Yeah.

7 BY MR. HACKETT:

8 Q He assured you that you don't have to agree to annexa-
9 tion to get water service?

10 A Yeah, that's, you know, that's what I can't stand, how
11 come when somebody else is interested in the area all
12 of a sudden the rules have changed. I have a hard
13 time.....

14 Q Did he tell you what you'd have to agree to if you got
15 city.....

16 A No.

17 Q Did he give you any costs or anything?

18 A No.

19 A Thank you. I have no more questions.

20 BY MR. SMITH:

21 Q Excuse me. Just one second, Mr. Lincoln. I -- just
22 to make it clear. I did discuss the concepts of a
23 special assessment district, which would have to be
24 approved by the majority of the owners in the area
25 before the city would extend the water service.

1 A I didn't get that part of it.

2 Q Didn't I send you a letter (indiscernible - manner of
3 speech).

4 A Oh. Yeah, yeah, that's the letter I got, yeah. But I
5 mean, at that hearing I didn't.....

6 Q Sure. Also at the hearing, did you bring up the fact
7 that you had been opposed to having your property
8 included in the annex by the Borough for the fire
9 service district?

10 A That's right. And there's a.....

11 Q Why is that?

12 A There's another deal that had went two or three times
13 and I went to all the hearings and stuff and always
14 got voted down. All of a sudden some guy's sitting in
15 my yard taking pictures of the house. You know --
16 what's going on here? Says, "Well, you're in the fire
17 district now." You know, I had to, I have to work so
18 I'm out of town and in slipped by, and that's the
19 thing that really kind of bothers me how this stuff
20 kind of gets slipped by and kept pushin', pushin',
21 till finally it just falls through the cracks. I
22 don't, I'm not too interested in being pushed through
23 a crack.

24 BY MR. HACKETT:

25 Q Not to prolong this, Mr. Lincoln, but for this special

- 1 assessment district that the City's talking about, for
2 example, a group of people can get together and agree
3 to do it and get some assessment costs, and you know
4 what those costs will be. *
- 5 A I want to know what the costs are going to be, though,
6 before I get.....
- 7 Q So does College Utilities want to know the cost.
8 That's one of the issues of this hearing. But, do you
9 agree with the concept -- like yourself, you don't
10 want to take utilities. How about your neighbor? If
11 he has the choice of taking it, he can hook up to CUC
12 if he wanted to?
- 13 A That's right. I have no problem with that. I just
14 hate to see happen what happened on South Cushman
15 when, years ago when the assessments were ungodly on
16 the property out there, ungodly. A lot of people lost
17 it and I don't think that should happen to anybody.
- 18 Q You're talking about one of the assessment districts
19 the City maintained?
- 20 A Yeah, a long time ago out there on that South Cushman.
- 21 Q In whatever documentation you've gotten from the City,
22 have you gotten any cost information whatsoever?
- 23 A No. Not -- it's all.....
- 24 Q All promises but no costs?
- 25 A There's nothing in black and white what it's going to

1 cost me. They show me where College Utilities is more
2 on day-to-day operation, but they don't show me what
3 it's going to cost me. They don't also put in there
4 now if you take the College Utilities, I mean if you
5 taken them and their assessments, and if they come
6 along and annex you in and your tax is raised, just
7 how much is that gonna cost you? You know, I want to
8 know the whole scope of, before I.....

9 Q For example, are you aware that the City fire district
10 annually gives some \$750,000 to the water utility.
11 That's a cost that comes out of taxes, or were you
12 aware of that?

13 A No.

14 Q And you want to see that cost. I take it, as well, is
15 that correct?

16 A I've never owed anything in my life and its because I
17 know what I'm getting into before I get into it, or
18 have a halfways idea.....

19 Q Okay, thank you.

20 MR. JACKSON: Just a second, Mr. Smith. One last
21 question, Mr. Lincoln. As I understood the question you
22 testified regarding, at the annexation hearings regarding
23 the annexing of the Wise area?

24 A Mm-hmm.

25 Q Was your property within the area to be annexed?

1 A Well, I was across the street from it, and the only
2 reason I even knew about was my wife's minority, so
3 they have to contact the minority, so -- and I, it
4 wasn't really, I didn't think there was enough repre-
5 sentation of people that lived in the area at the time
6 even, to.....

7 Q But you weren't within the annexation area?

8 A No. But they also said at the same meeting that
9 people who had businesses on the other side of the
10 road had.....

11 Qrequested.....

12 A Requested annexation, but they couldn't say who they
13 were.

14 Q Thank you. Let's go off the record for a second.

15 (OFF THE RECORD)

16 (ON THE RECORD)

17 MR. JACKSON: Mary Emmett?

18 MS. EMMETT: I would prefer testifying at another
19 time.

20 MR. JACKSON: Okay, thank you. Patricia Wern? Werner?
21 Okay. I think is Louis, I'm not sure, Plum? I'm not sure
22 of the last name.

23 MR. PERME: Perme?

24 MR. JACKSON: Yes sir. Would you like to testify?

25 Perme.

LOUIS PERME

1 testified as follows:
2

3 (Oath administered.)

4 MR. PERME: My name is Louis Perme, I live on the
5 corner of Davis and Alston Roads. I've been there I
6 believe more than anybody in this room has been. I know
7 we're going to get called into this utilities one way or
8 the other. That I don't care, but what is it going to
9 cost? That's the only question I got: the cost.

10 BY MR. JACKSON:

11 Q So I take it you came here to ask more than to testi-
12 fy.

13 A Right.

14 Q Well we can't give you, I don't think any of us here
15 can give you a complete answer to that. Hopefully,
16 possibly some of the counsel could provide you with
17 some information which would give you an idea of what
18 it would cost you. In terms of the monthly rates, I'm
19 sure they both could give you a pretty good idea, but
20 the large element of the cost is not so much the
21 monthly cost as what it costs to become hooked up,
22 however that's financed, and I don't know which cost
23 it is that your most interested in.

24 A Well, either one. It doesn't make any difference how
25 it will come out. If the hook up's there, well

1 naturally, that'd go how far you're off from where
2 your line'll be.

3 Q Mm-hmm. Could counsel for both parties get Mr.
4 Perme's address and supply him with some information
5 that would indicate, to the extent possible, how much
6 it would cost?

7 MR. HACKETT: We'll be happy to, Your Honor.

8 MR. SMITH: Sure.

9 BY MR. HACKETT:

10 Q What's, what is your tax parcel? What's your address,
11 sir?

12 A My address is 1386 box number.

13 Q And how to you spell your last name?

14 A Perme.

15 Q And the zip code is?

16 A 99707.

17 MR. JACKSON: Mr. Perme, as I understand what your
18 saying is, although it might change your mind once you
19 found out what the cost figures at this time you do not
20 favor either one of the utilities over the other.

21 A Well, right now, I don't know which way to go.
22 Whether it be the -- cause I don't know which one way
23 either one of them would work. How, which one of them
24 is high pressure, what's the other one going to be?
25 They both gonna be high pressure systems or what? I

1 don't know.

2 Q You'd have to look at the details surrounding what
3 they're offering before you could makeup your mind.

4 A Mm-hmm.

5 Q Okay. Well, thank you very much.

6 A Yeah.

7 MR. JACKSON: Kenneth Dahl?

8 (Indiscernible - manner of speech.)

9 MR. JACKSON: Certainly. J.A LeFever. Excuse me if I
10 mispronounce names.....

11 JAMES LAFERRIERE

12 testified as follows:

13 (Oath administered.)

14 MR. LAFERRIERE: My name is James Laferriere, P. O.
15 Box 60701, 99706. I am purchasing lot 18, I used to own
16 lot 10. Back in about 1980, after they put the high pres-
17 sure sewer system, the line I should say, the line had been
18 there from College Utilities, I inquired if I could hook
19 into that line. I was told it was a high pressure line and
20 I couldn't hook into it. I said, "what about if I put a
21 pump station there." Well, even if you put a pump station
22 in there there isn't enough -- there's too much volume now
23 to hook anybody else up. Mr. Wise brought his place in and
24 new people are gonna hook up into that line. People tes-
25 tified to the fact that the City hasn't been very

1 cooperative to bring people in for utilities because of
2 their policies. I can understand that. I have -- looking
3 at the minimum rate, I don't have on the slip that we have
4 cause we had to turn in because of the on the back they had
5 the cost per square foot. The cost per square foot on a
6 piece of property does me in. I was out to Seattle over
7 Christmas, I inquired about sewer treatment plants and
8 things like that. I come up with some figures -- I could
9 almost put a treatment plant in my own 2½ acres for the
10 cost that it's costing me to put sewer and water in. I
11 would like to as the people, to them, to think it over
12 themselves, and make their own utility district and then to
13 annex or title it over to one of these districts here that
14 want to come in. Because the cost to me is prohibitive and
15 the cost of putting a system in is not that much. Then
16 we're now required to have the, to hook into the pipeline
17 that College Utility has. A guy was going to dig, would
18 dig the trench and backfill it for \$1.00 per running foot.
19 I thought it was awful cheap, so I inquired of somebody
20 else, and he said "I'd gladly do it." He says, "Hell,
21 that's good diggin' out there." Now that's four years ago,
22 five years ago, now. So it isn't the cost, the cost isn't
23 the fact of the digging of the pipe or anything like or
24 putting the pipe in. Now the difference in the depth
25 people are going to have to go is gonna make one world of

1 difference as to how much somebody's gonna be able to dig
2 the hole for.

3 MR. JACKSON: Mr. Hackett?

4 BY MR. HACKETT:

5 Q Mr. Laferriere, is that right?

6 A Yes.

7 Q We all, in this room, are probably familiar with the
8 big statewide problem when we all voted first to move
9 the capitol and somebody decided well maybe we should
10 find out what it would cost before we move the capi-
11 tol, you remember that?

12 A Oh yeah.

13 Q Well, you're saying that you would have wished the
14 folks, or some people, would think about getting a
15 special assessment district; the gentleman that just
16 got up here, Mr. Lincoln, said that he, from whatever
17 source, believed that a South Cushman assessment that
18 the City ran was very high in cost, before one would
19 form a special assessment district, if that's what the
20 City is proposing for you, and other people like you,
21 don't you think it would be reasonable to ask the city
22 what it's going to cost?

23 A That's what I'm asking.

24 Q All right.....

25 A That's what we're all asking.

1 Q Okay, fine. But, if that's the City's proposal, don't
2 you think like, before you vote on something like
3 moving the capitol, or doing a special assessment
4 district, don't you think you should get some figures
5 from the City as to what it's going to cost?

6 A Right. The preliminary figures that both you people
7 gave then, as far as I'm concerned, are way too high.
8 Even on a minimum end.

9 Q Well, the figures--you're talking about a letter you
10 got.....

11 A Right.

12 Qfrom the City Attorney. Is there anything in
13 there about the specific assessment fees or total cost
14 of any project that the City proposes?

15 A Well, it could be figured out. I mean, they give us
16 cents per square foot. (Indiscernible - manner of
17 speech) I no longer have the letter because that was
18 on the deal for, you know, if we wanted the hearing or
19 not.

20 Q Well, all right, maybe.....

21 Aso I can't sit there and quote you, because I
22 didn't write it down or didn't follow it.....

23 Q As I understand.....

24 A Apparently it can be calculated very (indiscernible -
25 manner of speech).

1 Q Even assuming, you know CUC has some problems with
2 what the City said in that letter, but let's take the
3 letter for what it said. Did he, was there any ever,
4 there was some square footage figures.....

5 A That's right.

6 Qbut was there ever any specific costs or charges
7 that the City gave you for any special assessment
8 district?

9 A No, they didn't.

10 Q All right, and you understood it to mean -- let's say
11 there's ten people under the City's special assessment
12 district, and you don't get fifty percent of people
13 want it. What about the three of four who do want it?
14 In other words, if College Utilities had it, those two
15 or three could apply to College Utilities, and they
16 wouldn't (indiscernible - manner of speech). In other
17 words, did the City ever give you any costs for a
18 special assessment district for any entire project to
19 compare the entire project cost to any specific indi-
20 vidual costs.

21 A I've said no before.

22 Q All right. So it's pretty difficult to make a deci-
23 sion without those figures, isn't it?

24 A That's correct.

25 MR. JACKSON: Mr. Smith?

1 MR. SMITH: I believe I sent you a letter and it had a
2 sheet in it about the special assessment district, I be-
3 lieve I have a copy of this. This is the sheet. Is this
4 the sheet you're referring to? I have also a rate sheet of
5 the period rates of College Utilities.

6 A Well, yeah, I know. Just glancir at it like this,
7 I'd say yes (indiscernible - manner of speech).

8 BY MR. HACKETT:

9 Q Okay, sure. I don't want to debate the, you know, I
10 think Mr. Hackett is arguing the merits of his case,
11 and certainly I'll have Mr. Phillips, the City Engi-
12 neer who is in charge of extending water and City
13 sewer districts and special assessment districts, you
14 know, go through this for everyone. But did you un-
15 derstand this to mean that, before we extend service,
16 the people ion that area, the area to be served, such
17 as you and your neighbor, have to agree to the cost.
18 We have to give you an estimate of exactly what it
19 will cost on your lot, and that you and your neighbors
20 have to agree, at least fifty-one percent of you, and
21 if you don't agree to that then it won't be built. If
22 you do agree, say that's a good idea, then if it costs
23 more than ten percent than estimated costs then the
24 City absorbs that additional cost. So you will know,
25 before you're committed. But, unfortunately, until we

1 see what the inclinations are, that we're not going to
2 know. Is it your understanding that you and most of
3 your neighbors along Alston Roads don't want water and
4 sewer at this time?

5 A I don't know. People might along my street want it.
6 I know they definitely want water.

7 Q Okay. Okay, the responses I got back from my survey
8 basically, with a couple of exceptions, unless they're
9 close to Hill Road or University Avenue, have indi-
10 cated they do not want water or sewer either one, but
11 it's not very developed areas, it's mainly large res-
12 idential areas.

13 A Yeah.

14 Q And so, the City-designed system will only serve those
15 areas where there's a desire for that service, and a
16 willingness to pay for the cost of extending, or at
17 least a portion of those costs.

18 A I'm in that, you know, the Hill area road, there.

19 Q Okay, I'm sorry. I might furnish, for the benefit of
20 the Hearing Officer, I don't think I have a large-
21 scale map, this map here has the lot numbers, this is
22 just an excerpt of that map. . .

23 MR. JACKSON: Thank you.

24 MR. SMITH:for people that can give their tax
25 plot, and maybe have a little better determination -- I'm

1 sorry, exactly where are you, you're on Alston?

2 A Number 18. No, number 18, it's between, off of.....

3 Q Okay, so you, okay.

4 A (Indiscernible -- manner of speech) off of Hill.....

5 Q Sure. So, that's all the questions I have.

6 MR. JACKSON: You live on your own lot 18, now?

7 A That's right, mm-hmm.

8 Q And, for you yourself, do you want either water or

9 sewer.....

10 A Yes, I do.

11 Q You would to have the service?

12 A Yes.

13 Q And you indicated that the people along your street,

14 did you mean Holden Road?

15 A The people I know along -- no, there's kind of an

16 alley there, people along the alley there.

17 Q Okay, and how many people are you talking about when

18 you say.....

19 A About four.

20 Q These are people that you've talked to?

21 A That's correct, yes.

22 MR. JACKSON: That's all I have, I -- Mr. Hackett?

23 MR. HACKETT: Yeah, just one question. As I take what

24 the City Attorney just said to you then, Mr. LaFerriere,

25 the City won't even give you costs until they see how many

1 people are interested some time in the future. Is that
2 what you understood him to say?

3 A That's correct.

4 Q And, apparently, the City may not even decide to do it
5 if they don't decide it's worth it.

6 A Well, if the people are against it, you can't very
7 well do it.

8 Q All right, but the City'd be against it. They can't
9 give you the costs, though, until sometime in the
10 future.

11 A Well, you can't build it either, if nobody wants it.

12 Q Well, that's gonna be an issue in this case. Let's
13 assume that College Utilities could install a water
14 system if one customer wanted, and that the lines were
15 available for an individual to take it or not. In
16 other words, you're assuming -- let's say that were
17 the fact -- College Utilities, for example, has re-
18 quested extension of service based upon certain fund-
19 ing mechanisms, and certain lines will be available if
20 the property owner wants that service or not. So, if
21 College Utilities gets the authorization it may well
22 be built regardless of whether, you know, if certain
23 conditions are correct. And then, would you agree,
24 like Mr. Lincoln, that it would be favorable -- pref-
25 erable, for an individual property owner then,

1 assuming CUC's system is in place, that a person could
2 elect to take it or not.

3 A Well, that's up to the people, as far as I'm con-
4 cerned, I want it -- no matter if you put it in or
5 don't put it in. I mean, I'm gonna hook up.

6 Q All right.

7 A The lots are going for way much more money than what
8 they have, they're tripling (unintelligible). I've
9 drawn on a map 3½ miles from the City, and all lots
10 within 3½ miles of the City are going for \$3.50 and
11 \$4.50 a square foot. We're gonna get hit with some
12 taxes, and if we can't develop, I can't afford to pay
13 a thousand dollars worth of taxes on my lot, for a
14 year. So I'm gonna, I'm gonna be forced to develop,
15 one way or the other.

16 MR. JACKSON: Mr. Smith?

17 MR. SMITH: No more questions.

18 MR. JACKSON: One more question. Of the two services,
19 sewer and water, which are you, yourself, most interested
20 in, or are equally?

21 MR. LAFERRIERE: I would say the city utilities, sil-
22 ly -- city utilities -- MUS.

23 Q All right, so you do prefer City to College?

24 A Right.

25 Q All right. I'm glad you answered that question, but

1 that's not what I meant to ask. Between water and
2 sewer, which do you prefer -- which you want most, or
3 both?

4 A It would definitely be water. Definitely need water,
5 right.

6 Q Do you think that would be a general sentiment of the
7 people who you've talked to?

8 A Well, you can't wash white cloths, you'd better go
9 down to the laundromat.

10 Q Okay. In view of the, some of the other things you've
11 said why do you prefer the City to College given.....

12 A Well, probably because of the, you know, the letter we
13 received, and that I've talked to them and I've talked
14 to College Utilities in the past, and I wasn't really
15 satisfied with the answers, even though, I mean, I had
16 to accept the answers that I got.

17 Q If it were, if the construction was such that, as far
18 as the water was concerned, you would get that much
19 sooner in time from College than from the City, would
20 that change who you would prefer to get it from?
21 Would you rather.....

22 A If you intend to go down and wash clothes it costs you
23 twenty bucks. That drive a point in my head real
24 quick like. My pocketbook, especially.

25 Q So you, in terms of the water service, you are fairly

1 interested in getting it just as soon as you can?

2 A That is correct.

3 MR. JACKSON: Any questions? Thank you very much.
4 I'm gonna have to get you to start reading these things.
5 Is that Gil Nordmark?

6 COURT REPORTER: That's what it looks like.

7 MR. JACKSON: Gil Nordmark? Gil Nordmark? Would you
8 like to testify, sir?

9 (Indiscernible - away from microphone.)

10 Q Okay. Rose Lambert?

11 A That's my mother, can I speak for her?

12 Q Sure, would you come up please? If you'll stand and
13 be sworn in.

14 MARCUS E. LAMBERT

15 testified as follows:

16 (Oath administered.)

17 A I do.

18 BY MR. JACKSON:

19 Q Would you state your name, and spell your last name?

20 A Marcus E. Lambert

21 Q Okay, what would you like to say?

22 A I'm just like everybody else, I'm here to learn, but
23 just short and simple, we live at 3242 Davis Road,
24 which is real close to the Hill Road, about a block
25 from Hill Road.

1 Q What's your, do you know what your tax lot number is?

2 A No, I don't. I own property in another part of the
3 valley, this is my mother's lot.

4 Q So, your mother's lot is on Davis near the inter-
5 section of Hill.

6 A Yeah, about one block west on the north side of Davis
7 Road.

8 Q Okay.

9 A She has 2½ acres there.

10 Q All right.

11 A I think we find ourselves in the position where we're
12 on the border of on-coming City. I mean, it's just
13 inevitable. Anybody that doesn't think so I don't
14 think is being realistic. So, if this was given to a
15 vote whether we would, as property owners, say College
16 or City, it seems to make more sense to us to say City
17 because, like I say, I think it's inevitable that it
18 will become city, so does it really make sense to have
19 property that is in the city serviced by another util-
20 ity? And, if so, why? I mean, you know -- that's our
21 feelings in a nut shell.

22 MF. JACKSON: Okay, Mr. Hackett?

23 MARCUS E. LAMBERT

24 testified as follows:

25 BY MF. HACKETT:

- 1 Q But you have no, other than that thought, apparently
2 you have no preference as to the utilities, don't know
3 anything about the relative strengths or weaknesses of
4 them, or not?
- 5 A No, actually, prefer not to have them, but they're
6 inevitable. I can see that.
- 7 Q Well, let's say addition to the City was not inevita-
8 ble, then what's your feeling?
- 9 A Well, I think that anybody that felt that way was
10 crazy anyway. I mean that's just . . .
- 11 Q You're bound and committed that that's gonna be part
12 of the City, I take it.
- 13 A Well, unless it falls off the world or something, I
14 imagine, yes. I mean it's just going that way.
- 15 Q But you say the sentiment is that, where is your prop-
16 erty?
- 17 A We're just, you can throw a rock from the City to us.
18 Now, unless Nenana comes east or something . . .
- 19 Q I understand what you're saying, but because of this
20 feeling you obviously have, have you ever gone to the
21 City and say annex me? Have you ever said to the
22 City, give me water, sewer, annex me?
- 23 A No, I haven't.
- 24 Q And why haven't you?
- 25 A Myself, I was asked to come here to speak for my

- 1 mother, and it hasn't concerned me. I live so far
2 west of the whole situation that's why I haven't.
- 3 Q Is your mother . . . I take it . . . all right. Your
4 mother, has she ever asked the City to be annexed?
- 5 A Not to my knowledge.
- 6 Q Has anyone around her ever asked the City to be an-
7 nexed?
- 8 A I don't know the answer to that one.
- 9 Q So you're really speaking for your mother who can't be
10 here.
- 11 A Yeah, that's all I came to do.
- 12 Q Well, where do you live?
- 13 A I live on Chena Ridge.
- 14 Q All right, so basically you're really not individually
15 interested in this, you're just helping out your
16 mother.
- 17 A Well, in the interest of my mother's property, yes I
18 am interested.
- 19 Q What I'm trying to figure out, are you giving your
20 thoughts, or your mother's thoughts or a combination
21 of both, here.
- 22 A I'd say a combination of both.
- 23 Q All right. Do you know how your mother feels?
24 Whether she . . .
- 25 A Yeah, she said that if it had to happen, I mean, if

1 the utilities are coming, then we feel that it makes
2 more sense, if we're given a vote, we'd vote City.

3 Q Okay. Let's say that your mother had the choice of,
4 let's say, having College Utilities servicing this
5 area, which he didn't ever have to hook to any Utili-
6 ty, in other words, she could choose College or not,
7 would she prefer that?

8 A Well that's kind of a one-sided choice, isn't it? I
9 mean I understcccd it was College or City, which means
10 if it was College or not.

11 Q Well, okay, there's something you should bear in mind.
12 What the City is proposing may require you to take
13 sewer service or water service or not. If College
14 Utilities and the City can answer, but the way College
15 Utilities is structured, if College Utilities is given
16 the authorization in this area, regardless of whether
17 this becomes part of the City or not, just put that
18 aside, we're just talking about who's better able to
19 serve this area.

20 A Well what happens if, say, it goes City, it becomes
21 City, and then isn't there, it seems to me, just a
22 natural conflict that you've got something in the City
23 serviced by College? Is that unreasonable?

24 Q You'll have to ask the City, based upon what they've
25 said, if College Utilities is given the authorization,

1 even if it's part of the City, apparently they don't
2 want to serve. If College Utilities were given the
3 authorization, then your mother would have the oppor-
4 tunity or the choice of hooking up to College or not.
5 Would she like that? I mean, she's not here, it's
6 tough to ask her, but do you think your mother would
7 like having the choice of hooking up or not hooking up
8 to College Utilities?

9 A No, to answer your question, I don't she'd even want
10 that choice, because if--going back to what I started
11 to say, is we believe that it's inevitable that it's
12 City, why not keep it all City?

13 Q Do you believe that?

14 A Yes.

15 Q All right, fine. I have no further questions.

16 COURT REPORTER: I have to change a tape.

17 MR. JACKSON: Okay, just one second. Let's go off
18 the record.

19 (OFF THE RECORD)

20 (ON THE RECORD)

21
22
23
24
25

1 MR. JACKSON: Mr. Smith?

2 MR. LAMBERT

3 testified as follows:

4 BY MR. SMITH:

5 Q I think what you're trying to say is that you feel
6 pretty bad paying City taxes after annex and then
7 still having to pay the higher rates to have College
8 Utilities.

9 A Well, we'll just--if it's gonna go City, just let it
10 go all city.

11 Q Thank you very much.

12 A Is that all?

13 Q Do you know whether or not your mother desires to have
14 either sewer or water service? Forgetting who it
15 comes from, would she like to be able to hook up to
16 the water line and the sewer line?

17 A Well, yeah, I imagine water.

18 Q You do? Okay, have you discussed that with her, or
19 are you . . .

20 A Not in detail, but I know if water was available there
21 it would sure improve the standard of living. I mean,
22 the plumbing just goes bum and its impossible to wash
23 with water in the Davis Road area. Anybody in Davis
24 would probably want better water.

25 Q Okay, 'cause the water you get there's not that good?

1 A Well, yeah, it's full of rust and just bum.

2 Q And, no, that's all I have. Thank you, very much.

3 A Thank you.

4 MR. JACKSON: Is there, it's Glen Hancock, I believe.
5 I'm not sure of the last name.

6 MR. HONOMAN: Yes, Glen Honoman. I'd like to defer
7 to a later time, but I'd still like to get some information.
8 We're getting little bits and pieces from one attorney and
9 the other attorney about what the proposals are. I don't
10 really know what they're proposing. And until I can make
11 more of an intelligent estimate of what they're talking
12 about, I want to hold off.

13 MR. JACKSON: Well we're happy to have you wait, if
14 you'd like to wait. Is there a Christian Touche, again the
15 last name . . .

16 UNIDENTIFIED: (Indiscernible - away from microphone)

17 MR. JACKSON: Okay. Bill Schlecter? No, he's . . .

18 MR. SHECHTER: Yes, I'd like to say something. I
19 changed my mind (indiscernible - away from microphone).

20 MR. JACKSON: All right.

21 MR. HACKETT: Mr. Hearing Officer, Mr. Shechter is
22 one of our pre-filed witnesses.

23 MR. JACKSON: That's what I thought, sure, do you
24 want to testify at that time, or . . .

25 MR. SHECHTER: I'm not sure if I can stay around that

1 long.

2 MR. JACKSON: Well, yeah, in terms of your pre-file
3 testimony that we're gonna have to wait on that.

4 MR. SHECHTER: You don't know when I can come back,
5 though, you can't give me a time, so I can't stay here for
6 three days.

7 MR. HACKETT: No, no, no, you . . .

8 MR. JACKSON: No, you won't have to.

9 MR. HACKETT: Mr. Shechter, so you'll understand,
10 this is optional for you, but we can give you a precise
11 time for you this afternoon when you can come back. . .

12 MR. SHECHTER: Okay.

13 MR. JACKSON: Yeah, for your regular testimony.

14 MR. HACKETT: . . . that accommodates you, but if you
15 wanted to . . .

16 MR. SHECHTER: That's fine, I didn't know that was
17 going to be the case, but if I know a time to come back
18 then it'll be fine.

19 MR. HACKETT: How about four? Four o'clock?

20 MR. SMITH: The City is willing to just stipulate
21 to Mr. Shechter's pre-filed testimony, that that's what he
22 would testify, but I don't require him to identify the . .

23 MR. JACKSON: You have no cross examination?

24 MR. SMITH: We would waive our cross examination.

25 Okay?

1 MR. HACKETT: Would that solve your problem?

2 MR. SMITH: Yeah.

3 MR. HACKETT: All right, then, we'll be happy to
4 submit his pre-filed, it's identified. Would you like Mr.
5 Shechter to identify it, or can we stipulate . . .

6 MR. SMITH: Sure.

7 MR. JACKSON: No, we can take care of that, fine.

8 MR. SHECHTER: I'd still like to testify.

9 MR. JACKSON: You have some personal testimony other
10 than that?

11 MR. SHECHTER: Yes.

12 MR. JACKSON: Step forward.

13 BILL SHECHTER

14 (Oath administered)

15 called as a witness, testified as follows:

16 BY MR. JACKSON:

17 Q Would you state your full name and spell your last
18 name, please?

19 A Bill Shechter, S-h-e-c-h-t-e-r.

20 Q And your address?

21 A 4910 Pale Verde Avenue.

22 Q Okay.

23 A I'm not in the area to be annexed, but I am fire chief
24 of the area that is responsible for fire protection,
25 and I'm not sure what is to be brought up later, but I

1 wanted this to be put on record, now. There's a few
2 points that I wanted to bring out to the people here
3 is also for the record. It bothers me, I've been up
4 here for sixteen, seventeen years, and I see a con-
5 flict in City policy and ordinances that are estab-
6 lished by the Council. Years ago when the Teamsters
7 Mall was built, I know they requested City services
8 out on the Old Richardson Highway and there was a
9 statement of policy, and may have been an ordinance by
10 the Council that, in order for them to get the ser-
11 vices, they had to be annexed first. There were peo-
12 ple along areas that were recently annexed into our
13 fire district, that was last January, a year ago, that
14 had told me, and again I'm third party, that they and
15 requested the City to provide a specific service, in
16 that case, fire protection, obviously. And, they were
17 informed that the City would not provide one of its
18 utility services, or one of its services, I should
19 say. Maybe that doesn't refer to utilities, but it
20 would not provide the service prior to, or before,
21 annexation, to come about. Now, maybe the fire pro-
22 tection issue is different from a special assessment
23 for utilities, but it appears to me from the outside
24 to seem that there's a double standard as to what the
25 City has been saying in the past. Especially when the

1 fire district, and residents of this area along Davis
2 Road came to us and absolutely pleaded, and it's on
3 record through the Borough Clerk's Rural Community
4 Office, that these people requested that we extend our
5 annexation for fire protection to this area as an
6 indication of desires for City or to remain outside
7 the City but still get a certain critical service.
8 And then that's why we assumed this area, effective
9 last January. That's about all I have, sir.

10 MR. JACKSON: Mr. Smith?

11 MR. SMITH: I don't have any questions.

12 MR. HACKETT: No questions, Mr. Shechter, thank you.

13 MR. JACKSON: Bill Beistline? Would you like to
14 testify?

15 MR. BEISTLINE: Yeah.

16 BILL BEISTLINE

17 called as a witness, testified as follows:

18 (Oath administered)

19 BY MR. JACKSON:

20 Q State your name and address, please.

21 A My name is William Beistline, 3045 Davis Road is my
22 place of business. And it's spelled
23 B-E-I-S-T-L-I-N-E.

24 Q Thank you. Go ahead and give us any testimony you'd
25 like to give.

1 A Well, I, at first, was somewhat uninterested in what
2 was going on on the North side of Davis Road, because
3 I, my property is on the South side of Davis Road and
4 I'd already made arrangements so we had adequate sewer
5 and water. And, I didn't want to infringe on anybody
6 else's ability to get that. Then I received a letter
7 stating that there's been a petition on the particular
8 block of property that I am located in, which I had
9 tax lot 1717 and tax lot 1722, that there was a move
10 to go ahead and annex us into the City, and I'm defi-
11 nitely opposed to this, and although the annexation
12 isn't the issue, I think that it's connected because I
13 have many reasons why I don't want to be in the City.
14 And the reason I bought the property was because it
15 was on the fringes of the City, and it wasn't in the
16 City. And for that reason, I would want to oppose any
17 move to get it any closer -- I don't really agree that
18 it's inevitable that it has to go into the City, at
19 least my portion of the property on the south side of
20 Davis Road. My question, when I returned the
21 questionnaire, was "what is it gonna cost me, and what
22 are the benefits?" And I haven't really seen where it
23 would specifically benefit me in any way. The option
24 to have sewer or water would be nice at some point in
25 the future. At this point, I'm really am not

1 interested in hooking up because I don't feel that I
2 can afford to on the size portion of property that I
3 have. But I would like -- that's why I would favor
4 College Utilities over the City because it would be an
5 option where it wouldn't cost me the amount of money
6 it may in the City. And the other reason is that I
7 don't want to be in the City because I feel that I
8 would be assuming an awful lot of debt that the City
9 has taken upon themselves over the years. Their
10 bonded indebtedness, their assessments, and I think
11 that sooner or later, that the sales tax is going to
12 have to be re-initiated into the City, and I'm outside
13 the City so that hasn't been a whole lot of concern to
14 me. But not I see where there's property owner's, and
15 my neighbors who want to get, and I assume it's just
16 because of the water service that they want to get
17 annexed into the City, and I think that they should
18 really look to see what the long term costs of that
19 annexation is going to be for them. Because, as soon
20 as sales tax comes back on, and I think that, I think,
21 is inevitable, if you look at the financial situation
22 of the City, you're going to be paying for that time
23 and time and time again. and you can go down and buy
24 bottled water for a lot cheaper than it would cost to
25 get into the City. And every time you wanted to do

1 something with your property, if you want to put an
2 arctic entryway on your house or on your business,
3 you're going to have to be dealing with a bureaucracy
4 and you're going to be paying for the bureaucracy and
5 I've worked in the City and I've worked outside the
6 City and I know the rules in both cases, and I'd
7 prefer in all cases to be outside the City, and I
8 think that these two issues are connected. And for
9 that reason, I'm in favor of College Utilities over
10 MUS, and strongly so. I see there's a public hearing
11 on February 11 on this annexation question, and I'm
12 going to make sure that I go there and express my
13 concerns there, but I think that these are connected.

14 MR. HACKETT: No questions.

15 MR. JACKSON: Mr. Smith?

16 BILL BEISTLINE

17 testified as follows:

18 BY MR. SMITH:

19 Q You made the statement that the City has an awful lot
20 of bonded indebtedness, are you aware that the City of
21 Fairbanks has one of the lowest amount of bonded
22 indebtedness of any of the cities in the State?

23 A Well, just like everybody else that came here, my
24 question is, what is this gonna cost to me? What are
25 the benefits going to be, and what is the cost? I

1 haven't seen anything to that. I do know that there's
2 bonded indebtedness. I don't have bonded indebtedness
3 where I am right now. I don't care if it's ten
4 dollars. I want to know what it is, and I think that
5 the people that are looking for sewer and water should
6 be able to have those answers. So, no, I don't know
7 the details, I came here to try to find out a little
8 bit more because it was, all of a sudden I'm seeing
9 this coming along and I said, well, MUS might be
10 coming in here, College Utilities might be coming in
11 here, well, then all of a sudden it's a matter of
12 annexing into the City, and there's a whole new
13 ballgame there, when you're talking about annexation.
14 And those questions, I think, I would like to have the
15 answers to -- what is the bonded indebtedness -- I
16 don't care how it compares to Anchorage or Cordova or
17 anyplace else, but I would like to know what the real
18 costs are going to be. In the long run, as well as in
19 the short term. And the short term I think will make
20 a big difference to me as well.

21 Q Sure. We'd be more than happy to furnish that. I
22 talked to your wife, at some length, a week or two ago
23 here. Your wife is Marcy?

24 A Yes. Uh-huh.

25 Q And answered her specific questions. And I can

1 certainly give you a list, that I have in my office, I
2 don't have it with me, of the bonded indebtedness, and
3 I did discuss, at some length, you know, the benefits
4 of fire protection, the other City services that are
5 provided . . .

6 A Well, the fire protection, I'm just happy as can be,
7 we're going to be into a Class IV, I feel that where
8 we are right now we have the best of all worlds . . .

9 Q Sure.

10 A . . . we're close to the City and it's zoned so you
11 can carry on activities that some places you can't
12 even carry out in the Borough. You're working with
13 the borough and the City. And then you still don't
14 have to be encumbered with those things, and you're in
15 a fire district, and I think the residents of that
16 area, and the businesses of that area, should really
17 think long and hard before they initiate any moves
18 annex into the City.

19 Q I'd be more than happy to furnish that information,
20 and any other you'd like.

21 MR. HACKETT: No questions. Thank you sir.

22 MR. LAFERRIERE: I have a question. You say you were
23 owner of lot 1717 and 1'22? Would you please expound on
24 that because the owners of lot 17 is next door to me and
25 it's not you. Lot 22 is across the street from me, on lot

1 number 10, and . . .

2 MR. BEISTLINE: It's tax lot 1717 on Davis Road on the
3 south side of Davis Road. It's right next to Alaska
4 Welding Center, it's right between Interior Masonry . . .

5 MR. LAFERRIERE: (Indiscernible - away from
6 microphone) all right . . . okay.

7 MR. BEISTLINE: I'm not in the . . . right.

8 MR. LAFERRIERE: Yeah, it's okay.

9 MR. BEISTLINE: So it's really a different issue than
10 what you're talking about. And I understand your
11 issue. . .

12 MR. LAFERRIERE: I wish you would identify what you're
13 saying, (indiscernible - away from microphone), I didn't
14 recognize it.

15 MR. BEISTLINE: Okay, it's on the south side, and
16 this was a whole new questions that came up ter that.
17 First it sounded like, well, that maybe they're gonna annex
18 everything on the nrth side, and I thought, well, that's
19 fine, if those people want to do that that's fine, it was
20 really no concern to me. But it's getting a little closer
21 to home when all of a sudden I see that here I am, I've
22 bought property outside the City specifically because it
23 was outside the City, and I've built there and have made a
24 commitment to that area, and now, all of a sudden, I'm
25 faced with the possibility of being inside the City is

1 where I don't want to be.

2 MR. JACKSON: Okay, thank you. Robert Franz?

3 MR. FRANZ: (Indiscernible - away from microphone)

4 MR. JACKSON: Come forward.

5 ROBERT FRANZ

6 testified as follows:

7 (Oath administered)

8 A I do. My name is Robert Franz. I live on the corner
9 of Holden Road and South University. I'd like to ask
10 some questions, first, of the College Utilities, how
11 much do you charge to go by a lot? Say a frontage of
12 a hundred yards--three hundred feet?

13 MR. JACKSON: Could we go off the record for a
14 second?

15 (OFF THE RECORD)

16 (ON THE RECORD)

17 MR. JACKSON: Okay, we're back on the record, and Mr.
18 Franz is testifying.

19 A I'd like to have sewer and water, I think it's
20 convenient . . .

21 MR. JACKSON: Start over from the beginning, if you
22 would?

23 A . . . and I think government should not do anything
24 for the people that they absolutely can't do for
25 themselves. Now, right now, I have sewer and water, I

1 have -- mine's working fine -- and I have pretty good
2 water. I have one of the best water in that whole
3 area. And we can wash and drink and all with it.
4 However, if somebody wanted to come in there and built
5 more housing, you'd have to have a better sewer
6 system, I know. To have a system come in that you'd
7 have to buy their pipeline first and pay for the whole
8 thing and then to have them charge you double for
9 services, I think that's unscrupulous, I think it's
10 wrong, it's been going on and people, because they
11 don't know what the cost is, they have to just take it
12 and go. Now, I don't think a person should have to
13 mortgage his property in order to have somebody go by
14 with a pipeline and utilities. This is unfair and its
15 unreal and I think it just shouldn't be allowed. As
16 far as the City goes, I think it's been testified,
17 inevitably we'll be in the City and we'll be caught up
18 in all the problems and all the other things which we
19 haven't had to contend with so far. Now, I would like
20 to have a little bit more information, where everybody
21 know exactly what these people are charging per square
22 foot as they go by your place. What you'd have to pay
23 before you could hook up. And then we'll find out
24 exactly whether or not it would be worthwhile hooking
25 up to them or whether it wouldn't. But I don't know

1 why they, this hasn't come out first. It seems like
2 there's something not quite on the up and up. That
3 they would try to keep this under cover. Nobody likes
4 to testify when he doesn't know all the answers. And
5 we kind of make a fool out of ourselves if we do. But
6 I think these people ought to be a little more on the
7 up and up of what it's gonna cost a square foot to run
8 that pipeline by you for sewer and water.

9 COURT REPORTER: (Indiscernible - manner of speech)
10 microphones, it'll be very hard to hear what you're saying
11 if you play with them.

12 A All right.

13 MR. JACKSON: Mr. Hackett?

14 ROBERT FRANZ

15 testified as follows:

16 BY MR. HACKETT:

17 Q Mr. Franz, we'll get you that informational letter.
18 So you understand, we're not trying to keep anything
19 from anybody. One reason that I understand that these
20 comments are being taken now is that because people
21 are taking time off from their affairs, that aren't
22 witnesses in this hearing, and that everyone thought
23 it would be more convenient. But we'll be more than
24 happy to give you all the information you want. And
25 ne of the things was a letter that College Utilities

1 sent out to property owners, and we'll make sure you
2 get another copy of it. That's part of this record,
3 and we'll see you get a copy of it, but there's
4 other--you know, but my answer to you is the same,
5 basically gonna be the same answer I gave you when we
6 were off the record.

7 MR. JACKSON: Mr. Smith?

8 ROBERT FRANZ

9 testified as follows:

10 BY MR. SMITH:

11 Q Yeah. Did you get a letter from me? I'm Ron Smith.
12 Do you have the information on our special assessment
13 districts? If you have any further questions you can
14 certainly talk to me, or Mr. John Phillips back in the
15 corner. You can talk to him outside or another time.

16 A I got the letter that the hearing was gonna be today.

17 Q Yes.

18
19 ROBERT FRANZ

20 testified as follows:

21 BY MR. JACKSON:

22 Q Mr. -- let me just ask a couple questions. Do you
23 have it, personally, do you have a desire for either
24 the water or sewer service?

25 A It it was within reason, I would hook up, yes.

1 Q And . . .

2 A I certainly would. Not that mine doesn't work, but I
3 think it any building that would be done in the future
4 it would be to everybody's benefit to have it.

5 Q In terms of the public interest you think that it, the
6 services, are needed in that area? And . . .

7 A Some people have a very difficult time with water and
8 sewer. But I, where I am, I don't have any trouble.

9 Q I could not decipher, I wasn't sure from your
10 testimony, whether or not you have a preference
11 between College Utilities and FMUS. Is, do you prefer
12 one over the other?

13 A Well, from what I hear, that College Utilities charges
14 just to go by your place without even hooking up, and
15 then having the privilege of hooking up, it's out of
16 the question. It's ridiculous.

17 Q Okay. At this point, do you think you might prefer
18 the City, and the only reason for that, that you know
19 of so far, is that, based on the experience of some
20 other people you think the cost might be too much to
21 hook up to College? Is that correct?

22 A That's right.

23 Q Okay, thank you very much.

24 MR. HACKETT: Yeah, I just have a question.

25

ROBERT FRANE

1 testified as followed:

2 BY MR. HACKETT:

3 Q Mr. Franz, since you weren't really, you never
4 personally dealt with College Utilities on any cost
5 matter I take it.

6 A No. I haven't hooked up to them.

7 Q Well I'm trying to, so we understand your feelings,
8 would you feel all right in giving the name of the
9 person who you think was charged certain amounts by
10 College Utilities? So they can check their records
11 and find out what the situation was.

12 A Mr. Carter, who lives right next to me. He got an
13 assessment, or he got a figure of what it would cost
14 to run by there, and if I remember correctly, it was
15 either twenty-eight or thirty-one thousand dollars it
16 would have cost just to hook up. To have the pipeline
17 go by there. He paid thirty-three for his property.
18 And, now, you see, that's not--North Pole, I
19 understand, runs their utilities through, they don't
20 charge a dime to hook up, a dime for, you don't have
21 to pay for that pipeline. You just pay a hook up
22 charge, and then you start paying your bill. You
23 don't have to buy the pipeline first.

24 Q Okay, let's assume. Let's put Mr. Carter's experience
25 aside, since we don't, you know, let's assume that

1 what you're saying is not correct, all right? And
2 let's assume that, in the context of this case, let's
3 talk about this proceeding, and not in the, you know,
4 what you believe you know. Let's say, in this case,
5 that it wouldn't cost you, as an individual property
6 owner, anything to have College Utilities come into
7 the area because of certain reasons. Then do you think
8 it's better for a property owner to have the choice to
9 hook up or not, given your feelings about City
10 government and all the problems you think you'd get
11 involved with?

12 A Well you're saying that, if College Utilities didn't
13 charge me anything but the basic hookup charge and
14 then would I consider College? Is that what you're
15 asking?

16 Q I'm saying that, let's say College Utilities were
17 available in your area and the line was right there
18 and wouldn't, you know, and the cost to you would be,
19 wouldn't be anywhere like what you're, what you claim
20 your neighbor's situation was or wasn't. I mean, what
21 your saying is, cost is the main factor to you.
22 Correct?

23 A Oh yes. Initial cost.

24 Q All right, if College Utilities costs were not like
25 you're talking about, that then they were comparable

1 to the City's if you could get some information out of
2 the City, then would you prefer to go with private
3 enterprise or would you prefer to be under the City's
4 umbrella?

5 A Well, from what I've seen, I think I better go to the
6 City.

7 Q From what you've seen? Well, you haven't--what have
8 you seen? Other than you're . . .

9 A From what I've heard.

10 Q What you've heard. Okay.

11 A And, probably from what I haven't heard.

12 Q Oh, you don't know. So you're just judging it from
13 the experience of what you believe your neighbor's
14 situation . . .

15 A That's all I can go by. I've been trying to get some
16 information, but I haven't got a whole lot.

17 Q But you said government shouldn't do anything the
18 people can't do. What do you mean by that?

19 A Well, people can't get together, or and each one build
20 their own sewer system, so it's better the government
21 get the sewer system and pay for it a little at a time
22 and do it that way. It's like a fire department. You
23 can't everyone hire their own, buy their own fire
24 truck, so the City buy's a fire truck and they tell
25 them people to go fight fires. That's what they

1 should do. And so that's something that an individual
2 cannot do, but a group can go ahead and do that.

3 Q Well, would you like to hear that what the costs would
4 be that the City would charge you as versus what
5 College Utilities would charge you?

6 A Absolutely I want . . .

7 Q Well, all right, have you gotten that information from
8 the City yet?

9 A No . . .

10 Q All right.

11 A No.

12 Q All right, and that's something you'd want to hear?

13 A I surely do.

14 Q All right. No questions.

15 MR. JACKSON: Mr. Smith?

16 MR. SMITH: I really don't have a question of Mr.
17 Franz, I would, you know, kind of like to respond a little
18 bit of the argument of Mr. Hackett, here. Obviously, our
19 systems are built by private enterprise, you know, we
20 contract out what the costs, we figure out what people want
21 service, we contract with, put it out to bid, it goes to
22 the lowest bidder in a free enterprise system, and then the
23 property owners pay a portion under our assessment
24 procedures that I gave you in the letter, you do not pay a
25 hundred percent of that cost and you know that in advance.

1 We can't give that number to you today. You know, it's not
2 really a question, I think it's just a response to Mr.
3 Hackett. Thank you very much.

4 MR. JACKSON: Thank you sir, we appreciate it. Do
5 you have something else you want to say?

6 MR. FRANZ: No.

7 MR. JACKSON: Oh. Thank you very much then. The
8 next witness is Mike, and I think it's Losee?

9 MR. LOSEE: Losee?

10 MR. JACKSON: Losee? Okay, yes sit. I didn't know
11 if that was an "L" or a "J."

12 MIKE LOSEE

13 called as a witness, testified as follows:

14 (Oath Administered)

15 BY MR. JACKSON:

16 A I do. My name is Mike Losee. I live a 3152 Davis
17 Road. And I think I sure have got caught out in this
18 water and sewer just like everybody else in this room.
19 I didn't want it. Dennis Wise built the apartment
20 complexes. We got it there, that's progress. I'm not
21 against progress. So now we got to make the decision,
22 do we want College Utilities or City utilities. I
23 want City utilities. If we're gonna go. I work
24 construction -- the building trade -- and I've heard a
25 lot of complaints from College Utilities last summer.

1 That's my main decision. I'd want City utilities.
2 I'm rather concerned about the cost of the utilities.
3 Just like everybody else in this room. It seems sort
4 of odd that we're setting here and we can't find out
5 what it costs. Another thing is the College
6 Utilities, he keeps making the point that you don't
7 have to hook up to College Utilities. Maybe I
8 misunderstand this, but if College Utilities runs past
9 your property -- and when I went to the Borough
10 Assembly meetings, I heard a big argument about this
11 -- if it runs past your property and you don't hook up
12 to it and you go to sell your property you can't get
13 financing on your property if you got water and sewer
14 available and you're not hooked up. None of this is
15 being brought up today. I'd like to get a response
16 from this. All these people are businessmen at the
17 Borough Assembly meeting this was hashed over for
18 quite a while, and nobody could give a straight
19 answer. I'd like to get a response from College
20 Utilities on that. That's one of your main points
21 you've made here is you do not have to hook up to
22 utilities if it comes through. Okay, if it comes past
23 my property, and I don't hook up to it, now granted it
24 is not a law that I have to hook up, but I can't get
25 financing on my property if water and sewer's

1 available and I haven't hooked up. I can't get
2 anybody to finance it. Am I mistaken?

3 Q Mr., I think, Mr. . . .

4 A Lcsee.

5 Q Losee. I think the problem with that is that would be
6 something that would be determined solely by who you
7 were trying to get financing from and . . .

8 A We went through this same thing at the Borough
9 Assembly meeting, all these people are businessmen--
10 I'm a truckdriver, a dumb truck-, well not a dumb
11 truckdriver, I'm a truckdriver -- you cannot get
12 financing. You go to the bank, you say if -- not
13 bull-oney [ph] if -- all you guy's are businessmen.
14 You know, you can't get financing

15 Q Ah . . .

16 A If City water and sewer is available you can't get
17 financing if it's there and you're not hooked up.

18 Q I'll be honest with you. I have absolutely no idea
19 whether or not that's true or not. I mean, to be
20 perfectly honest with you. My suspicion is that it
21 depends on what bank you went to you. One bank could
22 have one rule and another bank could have another.
23 The VA could have another one. And none of these
24 people, although they may be businessmen, are not, do
25 not work in a bank.

1 A Well, I can definitely see why they'd want to shy away
2 from the questions.

3 Q If anybody has an answer . . .

4 A Well, I wouldn't want to answer that question myself.

5 MR. HACKETT: I'll give it a shot. I mean, I, it
6 seems to me that when you said City water and sewer and
7 their assessments on there . . .

8 MR. JACKSON: No, he didn't mean, you didn't mean
9 City though, you mean either one?

10 A No, I didn't, I did not. You're going to have the
11 same problem with both utilities.

12 MR. HACKETT: Well all I can say is, I've never tried
13 to sell a property there. I assume properties are selling
14 in that area. I mean, I don't know, I'm not a realtor.
15 But I assume, you know, I understand real estate sales are
16 pretty good in the area. I assume houses can sell. Now. .

17 .
18 A Yes, they can sell.

19 MR. HACKETT: . . if I'm mistaken I . . . I don't
20 know, I'm not a realtor and I'm not a banker, but you know,
21 there are plenty of residences to my common knowledge that
22 are selling. So . . .

23 A Yes, but, the water and sewer doesn't pass there yet.
24 That's the point I'm trying to make. College
25 Utilities keeps making the point here today, you do

1 not have to hook up if we run in.
2 MR. JACKSON: Right.
3 MR. HACKETT: Well, Mr. Gordon, go ahead, . . .
4 MR. GORDON: Let me speak to the issue. I don't,
5 this is not a, I'm not trying to avoid your question. I
6 don't believe this is an answer session. Both sides, the
7 City of Fairbanks and the College Utilities are going to
8 put on testimony in the case, okay? And maybe some of
9 these questions will be answered and maybe they won't, and
10 if I say something that the City said, thinks is not the
11 true instance in answer to your question (indiscernible -
12 manner of speech). I suspect, in the first place, College
13 Utilities Corporation hookup to our system is not
14 mandatory. If you want the service you can have it, if you
15 don't want the service you don't have to take it. We may
16 pass by some people's property going someplace else if they
17 want the service. And you already hit the nail right on
18 the head. Mr. Wise wants service, and in order for us to
19 provide it, or the City, undoubtedly we'll have to pass by
20 some properties that may not want the service. Okay?
21 That's just the start. You do not have to take it from
22 College Utilities. If you have a single-family dwelling
23 which does not use either very much sewer or very much
24 water, on large tract of land, i.e., approximately 2½
25 acres, which many of the parcels in this area are.

1 suspect that most financing agencies in the City of
2 Fairbanks would not require you to secure either sewer or
3 water from that public utility, whether it was College
4 Utilities or the City of Fairbanks. If, however, you have
5 a single family dwelling, or on a smaller parcel of land --
6 say 10,000 square feet -- they may require you to secure
7 the service because they don't believe, in their opinion,
8 it's not my opinion or the City's, but in their opinion,
9 the onsite sewer and water systems on small lots are
10 appropriate. Also, if you have a very intensive use,
11 perhaps a multiple dwelling, or a hotel, or whatever, on a
12 larger tract of land, the financing agency may want you to
13 secure public utilities, if they're available. But I do
14 not believe that they would require hookup to a utility
15 system if you had a low intense use, i.e., a single-family
16 dwelling, on a large parcel of land. Is that a fair state-
17 ment?

18 A I do not have a large parcel of land. I have a small
19 parcel of land. The bottom line it comes down to the
20 same thing again. If College Utilities comes in
21 there, or City utilities, let's say College Utilities.
22 College Utilities has made the point here, several
23 times, today, you do not have to hook up to my
24 utilities if I come by. But, on the other hand two
25 weeks from now, after he builds his pipeline through

1 there I decide I want to sell my property, I have to
2 pay, or I can't get financing on my property until I
3 hook up to utilities. That's what the bottom line is,
4 and I think it should be very clear that people
5 understand it.

6 BY MR. HACKETT:

7 Q Okay, let's assume, then, that that's the situation.
8 I guess, then, Mr. Losee, one of the concerns you
9 would want to know is the comparable cost and the long
10 term costs of both projects. Correct?

11 A Well I think everybody in this room wants the to know
12 the cost of the projects. That's the main issue here.

13 Q Right.

14 A We got the cart before the horse. We got everybody
15 sittin' here, they don't know what it costs. I am for
16 City utilities. Through my experience. If we get
17 utilities.

18 Q Okay, you're a member of the Union? Is that correct?

19 A Yes.

20 Q And, to your knowledge, does College use union or
21 non-union help?

22 A Not to my knowledge. I don't know.

23 Q To your knowledge they're non-union?

24 A I don't know . . .

25 Q Oh, okay.

1 A . . . I can't say.

2 Q All right. No further questions.

3 MR. JACKSON: Mr. Smith?

4 MR. SMITH: No questions.

5 MR. JACKSON: I have no questions. Thank you. Bill
6 Eagle?

7 BILL EAGLE

8 testified as follows:

9 (Oath Administered)

10 A I do. My name is Bill Eagle and I live out on Hill
11 Road someplace. Really don't know where. Next to
12 him. We own Barricades and Safety Equipment, a family
13 business. We're settin' here, and these people, to
14 some extent are right, we really don't know what we're
15 talking about. The City, here on one end, which I do
16 business with, College Utilities on the other hand,
17 which I do a lot of business with. And I need sewer
18 and water. But, if I go with the City, I don't want
19 to get in a position like both Chucky Reeves, or Rees,
20 did here a while back where he made headlines where
21 they didn't know whether they were gonna take his lard
22 away from him or whether they weren't. If I go with
23 College Services, we may get sewer, we may get water,
24 but we have another problem. We don't have a road.
25 I'm in the barricade business, year after year after

1 year we go out and we put in a water system this year.
2 We dig up the road, and we tear up all the phone
3 cables, tear up everything. Fine, we rent 'em the
4 barricades and they tear up the barricades, too. Then
5 the next year we go back and do something else and we
6 tear everything that we did last year up and do it
7 again. That's fine, we just keep making them barri-
8 cades. But there ought to be some sanity to this. We
9 have a real problem on Hill Road. I don't know
10 whether Dennis is here or not. But anyway, Dennis is
11 a fun guy. He just goes all over town and builds
12 these things, and boy it's fun to watch him work. But
13 he just built an extravaganza down there the other
14 side of Davis Road, and it's a dandy, I think. But I
15 asked at a hearing before he built it, how are they
16 gonna handle the traffic on Davis Road? I wanted
17 Dennis to go ahead and build that thing because he's a
18 fun guy and he furnishes housing for people. But now,
19 he's hauled in land from a pit half way across town,
20 the trucks hauled all summer. They raised all that
21 land on the other side, it would be the North side of
22 Davis Road. Now where the hell is the water gonna
23 come from when it drains off that land -- right by our
24 place. And we already have a flood problem every
25 spring and nobody paid a bit of attention when we

1 asked them to change the road, put in some drainage or
2 whatever, before they let Dennis build over there.
3 Now, we've got a lot of snow pack this year, and it's
4 gonna be interesting to see if the girls at my place
5 that are making signs are standing up to their knees
6 in water while they're making signs this spring. I
7 don't know that I have that much more to say. You
8 can't just keep putting in septic tanks. LeRoy has a
9 septic tank, Merle has a septic tank, I got two or
10 three of them. Everybody's got a well. Now you got
11 to believe this ain't gonna work forever. In fact, it
12 isn't working now, nobody can drink the water. I
13 can't even run y silkscreening process this week
14 because my, one of my water softeners broke down and
15 we're ruining the silkscreens every time we try to
16 clean 'em with this water. But I don't think we have
17 enough information. I was certainly -- if annexation
18 is inevitable -- I would certainly sooner go with the
19 City. If College Services can show me that they can
20 get in there and get us some service, and it isn't
21 gonna bankrupt us, I'd probably sooner go that way if
22 I don't have to go in the City. But I don't think we
23 can afford to do both. And we really need the water.
24 LeRoy has a deep well. I got two shallow ones and you
25 can't tell a nickel's difference between the water,

1 except his cost ten thousand dollars more and my
2 treatment plant cost ten thousand dollars more. And
3 the water still isn't fit to drink. But if you're
4 gonna do this, either one of you, I suspect Dennis is
5 the key to this whole thing. One or the other wants
6 Dennis's money, and that's all right, he spreads a lot
7 of it around, but I don't want to have to call Dennis
8 this spring and have him bring a pump down and bail me
9 out. He'd probably do it, but some of these things
10 should be brought into bear. There has to be some
11 drainage put in to that area -- the water won't run
12 uphill. If it's got no place to go it's gonna come
13 right in my building, which it never did before, until
14 Dennis -- and maybe it won't this year, but it's
15 really something to think about. I don't know that I
16 have any more to say. I just want to interject these
17 things that people should think about before they
18 decide to go either way. Now I like all you guys.
19 College Services wrote me a letter one time and told
20 me they were gonna go broke and they didn't think
21 they'd ever pay me -- but they did. The City, one
22 time, did go broke and they didn't even write me a
23 letter, they just didn't pay me for about three
24 months. So I like everybody, but I think we sure
25 ought to study this thing and figure out how it's

1 going. Thank you very much.

2 MR. JACKSON: If you could answer any questions they
3 might have we'd appreciate it. Mr. Hackett, do you have
4 any questions?

5 BY MR. HACKETT:

6 Q Just briefly. Mr. Eagle, you said that when Mr. Wise
7 was gonna make his development you talked to some
8 people about drainage and nobody paid any -- did he
9 talk to the City folks about this.

10 A There was one of these kind of (indiscernible - manner
11 of speech) letters and I couldn't get to that one, but
12 I did write a letter and say I was all for him
13 building the think over there, but somebody ought to
14 think about the traffic on Davis Road, and nobody did.
15 I still can't get out to come downtown. I have to go
16 up University when the D.O.T. lets out over there.

17 Q Thank you.

18 MR. JACKSON: Excuse me . . . Mr. Smith did you have
19 any questions?

20 MR. SMITH: No. That's okay.

21 MR. JACKSON: Thank you, sir, appreciate it. LeRoy
22 Wiedeman?

23 LFROY WIEDEMAN

24 called as a witness, testified as follows:

25 (Oath administered)



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A I do. My name is LeRcy Wiedeman, W-I-E-D-E-M-A-N. My mailing address is 1360 Little Fox Trail. I own an apartment, I have a shop complex at the end of Hill Road. Like Mr. Eagle, I've done business with Gary and the City, both. I'm in the sewer cleanup business, so to speak, we clean carpets and that type of think, so I've had contacts with both of them. I am in favor of City -- I mean of water and sewage in that area, 'cause we definitely need it. As far as which one will get it, it's got to be a matter of whether we're comparing apples and oranges, or what we're comparing, as the final cost. And that's the question that's been brought up. Personally, I would like to see private enterprise do it. So I'd have to lean toward College Utilities on that. But not being completely ignorant in the business field I also realized that College Utilities is gonna have to front that money up front somewhere, and it's gotta come. If the City does it, we know good and well that the rest of the people around the City are gonna help pay for it. That's part of the ballgame when you're playin' with government. So I think that the cost factor is going to make it as a determination as to who would actually get it. Am I gonna be able to come up with the money what we're gonna have to up front to

1 College Utilities, or am I gonna be able to
2 (indiscernible - manner of speech) and have the rest
3 of the taxpayers in the City help pay for my water and
4 sewer out there. And I think that's a question that
5 hasn't been answered. So there's where it boils down
6 to. And frankly, I'd like to put as little money out
7 of my pocket as feasible. As far as Bill's question
8 about the annexation. Bill, I was the one that
9 initiated that annexation on the south side over there
10 simply because I knew this problem was coming up and I
11 wanted to see an answer as to what was going to happen
12 with road service, with the fire, the whole question
13 because we're getting a lot of questions back and
14 forth and nobody seems to give us an answer. One
15 person tells me we have fire coverage down there and
16 the next one tells me we don't. My insurance says it
17 doesn't matter one way or the other, you're still
18 paying the same rate. And so I brought that up to do
19 it. As far as being in favor of annexation or
20 whatever. Like Bill says, we've had four-wheel drives
21 stuck up to their axle on that road down there and he
22 and I keep pourin' money and money and money into that
23 thing, and if everybody's gonna utilize it then we
24 might as well have some help paying for it. I don't
25 have any other questions.

1 MP. JACKSON: Mr. Hackett?

2 BY MR. HACKETT:

3 Q Mr. Wiedeman, another factor, other than the cost, I
4 assume, is implied -- maybe it isn't in your answer,
5 but, since you want water and sewer, I assume another
6 factor would be the time when it could be available.

7 A That's correct.

8 Q In other words, let's say that if one, say College
9 Utilities, could give you sewer and water sooner, or
10 give you the option of obtaining sewer and water
11 sooner, would that time factor be a plus in your mind
12 for College Utilities?

13 A Difference on the cost involved, again. I mean, if
14 I've got to wait a year and can save a considerable
15 amount of money what am I gonna be able to do with
16 that money in the meantime. Frankly I prefer private
17 enterprise, I'm a private businessman. And the less
18 City -- government -- involvement so to speak,
19 although College Utilities is regulated by a public
20 utilities agency, so either way you've got a
21 government entity ruling the water and sewer thing. I
22 think the whole matter of this hearing, to my
23 understanding was, number 1, do we want City water and
24 City sewer. Number 2, who's going to receive it:
25 College Utilities or MUS? And as far as I'm

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concerned, yes I want public utilities over there.
Number 2, I don't think we can arrive at that until we
actually see what everybody's asked for -- is the cost
that it's gonna cost me, personally on my lot, for
College Utilities to hook up to me and my five
apartments, or what MUS is gonna charge me to hook up
to my five apartments. And, knowing the ballgame, I
presume it's gonna cost me less with MUS, although I
prefer private enterprise.

1 MR. JACKSON: Are there other members of the public who
2 would like speak at this time?

3 PATRICIA T. WERNER

4 called as a witness, testified as follows:

5 A I'm Patricia T. Werner and I reside at 2038 North
6 Alston Road, and I've been hearing lots of different
7 things today but -- one of the questions in concern is
8 the fact that -- was when Mr. Wise was building his new
9 complex at one of the hearings when they were asking
10 him about utilities he said he was going to have Col-
11 lege utilities for water and the City for sewer. And
12 Mr. Osterdock said that the utilities would be going
13 down Fulton Road which is the road in front of my
14 property. So that is my main concern in that aspect as
15 I don't want that utility going down, at least on my
16 side of the road. It can go on the other side of the
17 road if it wants and we have been hearing many
18 different testimonies as far as this deal with the
19 banks and the mortgages; and our own borough mayor said
20 that -- you could not get loans and one of the Borough
21 assemblymen, who is a lawyer or not a lawyer, but a--
22 realtor said that -- you could not get a loan. But
23 there are some loans available. But the whole thing is
24 the cost. Even with College Utilities they say twenty-
25 three cents a square foot per sewer, twenty-three cents

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a square foot for water. That was last year's quote, and they said it was going to go up; and any time that I have talked with College Utilities over the phone I have not gotten very good responses from them -- but it -- it always is estimated cost. So there are perhaps cost that are above and beyond that cost and we were told that up to an 1/2 an acre for -- a single dwelling -- well I know Mr. Font has one piece of property there, but it's three parcels so is he going to be charged for each one, because each one may not be over a 1/2 acre so he's going to end up paying for an acre and 1/2. And -- so forth on that -- standpoint but -- I -- as I said I'd like to know why he's talking about putting the water line down Holden Road instead of Nineteenth where there is the line or down Davis where there are a lot more people. And -- one of my neighbors was interested, she was all excited about it 'cause she was wanting the sewer and we wrote and asked for a quote and they said we were only going to put water down there. There's no interest in sewer so -- I think the feeling with a lot of people is they -- if -- if they want -- if we have one coming down we might as well have both. But our personal feeling in our household is that we would rather not having any one coming in there; and if we had to -- from my past

1 dealings with Lane Thompson and some other people with
2 the City I would much prefer having the City come in.

3 MR. JACKSON: Mr. Hackett?

4 MR. HACKETT: Thank you.

5 BY MR. HACKETT:

6 Q Mrs. Werner, I'd just like to try clarify a couple of
7 things that -- you said. You indicated that you
8 believe that there are loans available for property
9 owners if they don't hook up is that correct?

10 A Yes there are nonconforming loans. They are more --
11 more expensive -- I don't know if they are available to
12 the majority of the people. I don't know if they'd be
13 available to someone that had a log home.

14 Q This would be an available loan than for a person, for
15 example, with College Utilities went by your property
16 and chose not to hook up to College Utilities this
17 would be for a person who than if he lived on a small
18 lot -- he or she lived on a smaller lot an the bank was
19 going to require something the person -- or not require
20 something the person then would have a vehicle
21 available for selling his property is that correct?

22 A Possibly.

23 Q All right? It was unclear, you said you had a friend
24 who wrote to someone and someone said that they were
25 only interested in putting water and not sewer

1 tha.....?

2 A My neighbor -- my -- neighbor was interested in scoring
3 water because she has -- very bad problems, and you've
4 been corresponding with her and my husband and I wrote
5 to College Utilities inquiring because we wrote to both
6 utilities this fall inquiring as to the exact cost.
7 Because that's what everyone here wants to know is how
8 much is going to cost us? We don't want -- to hear ten
9 years from now that's going to be a big -- a big burden
10 on our mortgages. And I think some of the people here
11 do not want to have to worry about their -- perhaps
12 widows and their mothers; and how much their going to
13 have to be paying in the future or their children if
14 their children end up buying -- owning that property.
15 How much they are going to have to pay down the road.
16 And if this can be absorbed -- with a loan over a
17 period of ³time or if it's going to be up front which I
18 was told with College Utilities in writing when we
19 first wrote to them last year. When I first heard
20 about this line going down Holden Road. We were told
21 the money was up front -- since then, because of this
22 conflict we've been hearing that we have -- we can put
23 25% down and then have -- make payments. But that's
24 not what I was told over the phone by one of your rep-
25 representatives and I was also told it was twenty-three

1 cents a square foot for sewer and the same for water
2 and that that cost was going to go up by two cents a
3 year.

4 Q When do you believe you had this conversation.....?

5 A It was last spring.

6 Q Last spring? All right, but that's your recollection
7 of what was said?

8 A I have it in writing.

9 Q And your -- your preference is to have neither utility
10 there is that your preference.....?

11 A Yes, we have very good water and a very good sewer
12 right now. We have a new well that is deep -- I think
13 a lot of people in the neighborhood have wells that are
14 18 and 20 feet deep. Ours was until a few years ago
15 and we had some problems and we put a new well in and
16 we have very nice water.

17 Q Do you what any cost would be or do you believe you
18 know what any cost would be if you hooked up with the
19 City?

20 A I have been told that -- well, the hook cost is
21 something that's going to depend on the labor that's
22 involved with either one, because with College Utili-
23 ties you can do your own hook up; and with the City I
24 think you can do your hook up as long as the person is
25 a bonded licensed contractor.

1 Q All right. But do you know -- have you ever seen cost
2 figures from the City or a special assessment district
3 or have they given you any long term cost -- you know?

4 A (Indiscernible - manner of speech)

5 Q Pardon?

6 A No, they haven't. But they also have a system where
7 you are charged up to a maximum on your lot.

8 Q I'm not clear on what you're saying. Is--if a system
9 were available would you hook up if available or is
10 timing availability or availability and timing.....

11 A Probably not.

12 Q Probably not hook up regardless of who served the area,
13 is that correct?

14 A (Inaudible reply)

15 Q All right, so you're -- that's all the questions I
16 have?

17 MR: JACKSON: Mr. Smith.

18 BY MR. SMITH:

19 Q So you'd prefer the City, because -- because with our
20 assess -- assessment district you and your neighbors
21 would get to vote on whether a project is built in your
22 neighborhood and if you could vote it down?

23 A And we would have some control.

24 Q Thank you.

25 MR. JACKSON: Are there any other public witnesses who

1 would to speak at this time?

2 UNIDENTIFIED: (Indiscernible - away from microphone)

3 MR. JACKSON: Ok lets go off the record.

4 (OFF THE RECORD)

5 (ON THE RECORD)

6 MR. JACKSON: Lets go back on the record. This is a
7 continuation of the APUC Hearing on the afternoon of
8 January 15 and Mr. Robert Dunn has indicated the desire to
9 testify as a public witness.

10 MR. ROBERT DUNN

11 called as a witness, testified as follows:

12 (oath administered)

13 MR. JACKSON: Mr. Dunn, if you would state your full
14 name and spell your last name, and give your address we
15 would appreciate it.

16 A I do. Yeah, Robert F. Dunn D-u-n-n, 3318 Davis Road
17 and I'm not sure, I think it's lot 30 -- I'm not sure
18 of that -- ok.

19 MR. JACKSON: Whatever testimony you would like to
20 give.....

21 A Yeah, basically I would just -- voice the opinion that
22 -- I would not take any position on water or sewer in
23 my area until I had more information to go on. I think
24 it's not a good idea to make any kind of a commitment
25 -- until some facts, figures, cost specifically, I

1 think, are presented to the residents are presented to
2 the residents. I don't think it's a full blown
3 conclusion that -- the section of Davis Road that I
4 live in is going to be either annexed by the City or
5 possibly even served by College Utilities -- I may be
6 in error of that, of course. However, I would take the
7 position now that I would not favor either College
8 Utilities or the City -- putting in water or sewer on
9 Davis Road. That's basically all I would have to say.

10 MR. JACKSON: Ok. We could ask you questions. Mr.
11 Hackett do you have any questions?

12 MR. HACKETT: No, I have no questions Mr. Dunn.

13 BY MR. JACKSON:

14 Q (Indiscernible - cough) Mr. Smith.....well, let me just
15 ask you Mr. Dunn -- you -- I guess your own --water
16 system and septic system?

17 A Yes, and it's perfectly adequate.

18 Q Ok and so basically at this point you would have no
19 desire to see the services brought into the area by
20 anybody?

21 A That's correct, and I think I probably should say in
22 all honesty that I don't think it's really fair to --
23 ask residents to make any kind of a commitment --
24 without presenting them with facts -- specifically
25 costs-- as to what they are going to be committed to.

1 It would be very nice to have those kind of services.
2 I think a lot of residents would like to have those
3 kind of services. I don't think there is is other area
4 in our lives that we would you know certainly make any
5 kind of commitment without knowing cost so I -- I would
6 not adopt that -- I would not act differently in this
7 instance, certainly. I'd want to know what it's going
8 to cost.

9 MR. JACKSON: Thank you. Are there any other
10 members of the public who'd like to give testimony at this
11 time? Okay, thank you very much, again, for your
12 testimony. At this time, there are several motions that,
13 first of all, we need to deal with. Parties were notified
14 that the motion by College Utilities to dismiss Fairbanks
15 application, or to deny the application with prejudice, was
16 denied. As to the other motions, I'm prepared to rule, if
17 counsel would like an opportunity to argue, I'll give 'em
18 that opportunity.

19 MR. HACKETT: I'll rely upon the filings on behalf
20 of CUC, Mr. Hearing Examiner.

21 MR. SMITH: I presented to you, early this
22 morning, some specific responses . . .

23 MR. JACKSON: That was . . .

24 MR. SMITH: . . .to that motion.

25 M. JACKSON: . . .as to the motion to dismiss the

1 application, particularly, too.

2 MR. SMITH: No, I gave you two separate
3 (indiscernible - manner of speech). One, the motion to
4 dismiss, even though you'd ruled on it, . . .

5 MR. JACKSON: Right.

6 MR. SMITH: . . . and secondly, the motion to
7 strike.

8 MR. JACKSON: I'm not actually sure that I read
9 what you had on the motion to strike. In any event, at
10 this time, I'm going to deny the motions. The evidence
11 will be admitted into the record. For the most part, the
12 objections which are raised go more to the weight of the
13 evidence than to the admissibility of the evidence, and Mr.
14 Hackett, certainly, you will have the opportunity to
15 cross-examine any of their witnesses regarding information
16 that was sent out with their survey, and I think that even
17 just with the testimony we've had today, there's certainly
18 a lot of testimony about that people don't feel they can
19 really make a choice because they don't have enough
20 information. And I think that's really, largely, what
21 you're getting at, and that point very well may be
22 accurate. But nonetheless, I think the evidence can be
23 submitted and can be admitted. The Commission, obviously,
24 will look at the evidence in its own mind, and they may
25 decide that some of it should be rejected, but we'll allow

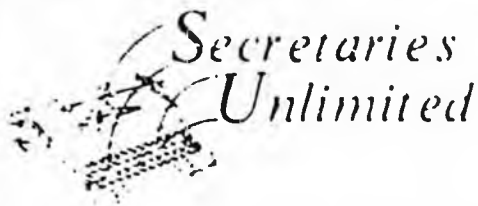
1 the evidence in for them to look at. And, then, are there
2 any other preliminary matters that we need to deal with at
3 this time?

4 MR. HACKETT: Not that I'm aware of.

5 MR. JACKSON: In that case, we shall proceed. Each
6 of you, if you would like to make an opening statement, the
7 City -- we will start -- the College will present their
8 case first, and will have the first opportunity to make an
9 opening statement, and the City can either make an opening
10 statement after College goes, or reserve it until you begin
11 to present your direct case, at your option. Mr. Hackett?

12 MR. HACKETT: Thank you. Mr. Hearing Examiner, on
13 behalf of College Utilities, we obviously believe the
14 Commission has jurisdiction under the APUC act to determine
15 who is better fit, willing and able, between the two
16 applicants, to receive the requested certificates of public
17 convenience and necessity for sewer and for water. And CUC
18 requests the Hering Examiner, and the Commission, as I'm
19 sure they will do, to keep these determinations separate.
20 We believe that we have shown, through our pre-filed
21 testimony, that College Utilities Corporation has
22 sufficient financial resources, through contributions in
23 aid in four different financial sources, for College
24 Utilities to serve the areas requested. And these are
25 contributions in aid of construction, customer advances,

1 specifically in the case of Mr. Wise, who is willing to
2 front some \$100,000 dollars in order to get access for
3 College Utilities water and sewer combined to his property.
4 College Utilities capacity to fund some of the construction
5 through loans and through their general equity funds. So,
6 we believe our pre-filed testimony establishes the College
7 Utilities resources. College Utilities is comprised of two
8 separate utilities, both of which are regulated separately
9 by the Alaska Public Utilities Commission. CUC believes
10 that the fact that it is a fully economically regulated
11 entity, both on the utility, and on the water side, is
12 definitely a plus in these competitive proceedings. Both
13 of its utilities file Class A records as required by the
14 Commission. Next year, CUC, as a result of obtaining more
15 than a million dollars worth of revenues, will join a
16 select group of some twenty-eight national, independent,
17 water companies that gross annually over a million dollars.
18 CUC combined has a total plant in excess of 14.5 million
19 dollars, and annually it collects fees in excess of two
20 million dollars. Again, through the pre-filed testimony,
21 CUC has established its track record, so to speak, as far
22 as being capable of providing the services requested. For
23 the last five years, CUC has easily increased its combined
24 plant in excess of a million dollars for each of the five
25 years. We believe this is very strong proof of CUC's



1 technical expertise and capability in the area of providing
2 the utility services requested. CUC has the advantage of
3 continuity of personnel, has a very experienced board of
4 directors, a stable management team. The pre-filed
5 testimony sets forth the managerial expertise and the
6 organization of College Utilities, which has -- contrary to
7 FMUS -- has not experienced a turnover in personnel or
8 policies over the years. The existing CUC sewer plants
9 would not be taxed, in any way, by the proposed extensions,
10 as set forth in our testimony. CUC's sewer and collection
11 interceptor system is capable of handling some two million
12 gallons per day of effluent, and it's only approximately up
13 to a million presently. So the anticipated extensions CUC
14 believes are modest in scale and would not tax its sewer
15 collection and interceptor system, which is very close in
16 terms of proximity to the area, primary area, which CUC
17 requests to service. As far as the other areas that CUC
18 has requested to service, CUC, through its testimony, has
19 established that it really came into being as a result of
20 FMUS's unwillingness, years ago, to serve the area west of
21 the present municipal boundaries. College Utilities has
22 serviced, and will continue to service, what FMUS has
23 termed "pockets and voids." The relative size, strength
24 and capability of CUC, as a result of its commitment to
25 service its service area, which it has done and will

1 continue to do. As far as the water side is concerned, as
2 was pointed out this morning in some of the testimony by
3 Mr. Shechter, it has a very capable reservoir system, the
4 water capacity of CUC is 1.4 million gallons at peak
5 capacity. Right now it's operating at approximately
6 750,000 gallons. So, again, there's plenty of leeway in
7 there for CUC's existing capacities to service the areas
8 that it has requested. Another matter where CUC believes
9 it's definitely in the public interest for the Commission
10 to grant it the authority requested, is in the area of the
11 applicant's proposed rates and rate designs. CUC has set
12 forth, in some detail, its pro forma revenues. In other
13 words, how much money it expects to receive from the areas
14 to be serviced. It has set forth in some detail how much
15 expenses it expects to incur in those areas. It has set
16 forth and itemized, to the best of its capacity, how much
17 the value of the plant, both in sewer and water, it's going
18 to be in that area. And, it has set forth what it
19 considers to be the proper return, or the opportunity to
20 earn a return, on that investment -- the so-called rate
21 base. Basically, CUC has set forth what it believes the
22 Commission requires; that is the four basic components, the
23 revenues, the operating expenses, the plant, and the return
24 on that plant, which the Commission has traditionally
25 looked at. In comparison, CUC believes that the FMCS's

1 applications are totally either devoid or silent on this
2 issue. CUC maintains that the applications filed by the
3 City don't even -- they show, first of all, FMUS operates
4 its municipal utilities as a combine. And basically what
5 has occurred -- last year the telephone utility, which is
6 not presently before this commission, made approximately
7 4.5 million or some -- the figures are in our pre-filed
8 testimony -- well over four million dollars worth of
9 profit. The sewer lost over two million dollars, and the
10 water utility lost somewhere in the hundreds of thousands
11 of dollars. The problem that CUC has grappled with, as
12 have the people as private citizens, trying to get a handle
13 on what actually it costs FMUS to run its deficit sewer
14 utility, and to run its deficit water utility. CUC's
15 position is that adding these extensions for FMUS is
16 certainly not going to decrease the deficits which, by
17 FMUS's own projections, will occur again in the future.
18 CUC believes that what little information it's been given
19 in these proceedings by FMUS shows projected losses in the
20 sewer and water utilities by FMUS. And CUC believes that
21 the evidence will show that these losses don't even taken
22 into account the extension areas into which FMUS expects --
23 is applying to the Commission -- to extend into. Another
24 -- CUC believes that the pro forma tariffs that it has
25 filed in this case show a wider range of services and

1 choices for individuals. The choices for FMUS are,
2 seemingly, all -- if you follow the service district
3 concept by FMUS -- if there is a vote taken, some persons
4 who don't want the utilities will have to take it, and
5 that's assuming that the costs have been established. So
6 far in these proceedings, FMUS has established no costs,
7 either as to the proposed extensions or as to any other
8 alternative which it's proposing for the consumer.
9 Significantly, CUC has had approved cost of study services
10 done for its tariffs, which make the cost causer be the
11 cost payer. This is a principle which CUC believes in and
12 which the Commission has mandated that it follow -- that
13 there be some relationship between the cost incurred and
14 the tariff paid. CUC believes FMUS's showing is deficient
15 in this regard. For example, in the water -- excuse me, in
16 the sewer tariff -- which FMUS proposes, it's a \$3.03 per
17 gallon charge, regardless of class, type, or nature of
18 customer. CUC believes that, first of all, FMUS has not
19 even established the existing rates that it proposes to
20 interject, or proposes to apply, to person or persons in
21 the requested extension areas. And these deficiencies, CUC
22 believes, are significant in this proceeding, because as
23 early as 1976, the FMUS did appear before the Commission in
24 a contested competitive application proceeding, and the
25 Commission, in fact, issued an order, I think it's 21 PUR

1 4th, In Re City of Fairbanks, where some of these standards
2 were discussed as early as 1977. Another matter that CUC
3 would ask the Commission to consider is the preparator
4 shown by the applicant in the filing and in the
5 presentation of its case -- in terms of the pre-filed
6 testimony. CUC believes that, on comparison, it has the
7 edge in that area as well. Another matter to consider is
8 the demonstrated alertness that the applicant has shown to
9 consumer needs in the area under consideration. The
10 evidence, we believe, will show that CUC, as early as April
11 of last year, wrote inquiry letters to the residents in the
12 Holden Road area, and there have been numerous contacts
13 between Mr. Gordon and Mr. Wise -- one of the primary
14 persons involved, one of the primary reasons involved in
15 these proceedings. Another matter, again that touched
16 upon, is that CUC believes that the fact that it's a
17 private enterprise, that it's locally owned and controlled,
18 is significant. Because, should the Commission award one
19 or more of the requested certificates to FMUS, after that
20 point in time, then the --if the -- then the Commission
21 control over the municipality would end, if in fact under
22 the exemption provisions under the act. Another point that
23 CUC thinks is significant is, in the past, is the past,
24 present and continuing problems FMUS has had with
25 regulatory bodies generally. The evidence, we believe,

1 will show that in the one joint interconnect proceeding
2 between FMUS and CUC before this Commission, FMUS was not
3 responsive to direct orders by the Commission to produce
4 certain documentation. Also, the pre-filed testimony of
5 FMUS shows that they have had, and do have problems with
6 the the EPA -- the Environmental Protection Agency -- and
7 they are presently embroiled in another controversy with
8 the State Environmental Conservation Agency. We believe
9 that these problems are significant when the Commission has
10 to determine which one of these applicants is subject to
11 regulation and control for the benefit of the public.
12 Another matter for the Commission's consideration is the
13 priority of the applications. In this matter, we believe
14 that the evidence will show that it was CUC who -- and as
15 some of the testimony this morning has pointed out -- it
16 was CUC who first took the steps necessary to make
17 application for -- in this case for the area, or areas, in
18 question, and it was only after CUC's interest became known
19 that FMUS, after substantial periods of lack of interest in
20 this are, became interested. One of the problems that CUC
21 sees is the lack of comparability in the presentations.
22 CUC has taken efforts to quantify, in terms of its tariffs,
23 in the elements in its tariffs and in the costs and the
24 revenues, and is consistent with CUC -- consistent with
25 Commission requirements and orders. The problem that CUC



1 perceives in FMUS's rates are the fact that many of the
2 components -- or the costs associated with doing business
3 as a consumer with FMUS -- are not clear. For example,
4 annually, the City Fire Department pays \$750,000 to the
5 City water utility for a hydrant cost, which comes out of
6 taxpayers revenues. And the issues -- and CUC does not
7 believe it's in the public interest to award either one of
8 these certificates to FMUS because we believe that would
9 further exacerbate the existing deficiencies and deficits
10 that FMUS has experienced, and will continue to experience
11 in its water and sewer utilities, and will basically,
12 continue the practice which we do not believe is in the
13 public interest of having the FMUS telephone utility
14 subsidize these deficit water and sewer utilities. CUC is
15 required, by law and by the Commission, to make sure that
16 both its water utility and its sewer utility, separately,
17 carry themselves, and they are viewed as independent
18 utilities by the Commission, and CUC believes that is in
19 the public interest and is a good reason not toward these
20 to FMUS. And finally, there's another secondary -- a
21 couple of secondary -- subsidy issues which CUC believes
22 are not in the public interest and would not serve the
23 public interest by awarding either certificate to FMUS.
24 And that is the fact that some of the components involved
25 with the utility rates by FMUS are paid by taxpayers, who

1 may or may not be the same as persons who are using the
2 utility service. And finally, for example -- as I pointed
3 out, as CUC points out -- in its rate of \$3.03 per gallon
4 for the sewer, there is no differentiation between type --
5 and in other words, a residential user pays that, as much
6 as a consumer user who might have different strengths of
7 effluent. So, because of these differences and the lack of
8 comparisons, CUC will ask the Commission to grant its
9 applications. Thank you.

10 MR. SMITH: Mr. Hackett has basically re-argued
11 his motion to dismiss, which has already been denied. And
12 most of his opening statement was in regard to that. I
13 didn't interrupt him, there, I reserve my opening statement
14 till we begin the case. I would respond, you know, very
15 briefly, to some of the arguments that he made that there's
16 a two million dollar deficit. That's certainly borne out
17 by the facts. We are on a different accounting system for
18 our rate bases, and I'll have witnesses go into great
19 detail. And, just for the members of the public, I think
20 that many of the statements are very, very misleading
21 because they are different systems and we will explain them
22 at considerable depth when I have time to present my
23 witnesses.

24 MR. JACKSON: Thank you, Mr. Smith. Mr. Hackett,
25 you may call your witness. First witness . . .

1 MR. HACKETT: Thank you. Mr. Hearing Examiner, do
2 you have any preference as to order? I see Mr. Eisele
3 . . . (indiscernible - manner of speech)

4 MR. JACKSON: It's -- however you like would be
5 fine with me.

6 MR. HACKETT: Mr. Eisele, would you come forward,
7 sir?

8 EDWARD EISELE
9 called as a witness, testified as follows:

10 MR. JACKSON: The -- why don't we go off the record
11 just for a second.

12 (OFF THE RECORD)

13 (ON THE RECORD)

14 MR. JACKSON: Then we'll put it in. Mr. Hackett?

15 BY MR. HACKETT:

16 Q Thank you. Would you state your full name, sir?

17 A Edward J. Eisele.

18 Q And where do you reside, Mr. Eisele?

19 A 4034 Birch Lane.

20 Q Are you involved, in any capacity, with the University
21 Fire District service area within the Fairbanks North
22 Star Borough?

23 A Yes, I am the chairman of the Board of Commissioners of
24 the University District service area, which provides
25 fire protection..

1 Q And how long have you been in that position?

2 A Six years.

3 Q In -- as part of this proceeding, Mr. Eisele, did you
4 file a document entitled "Pre-filed Testimony of Edward
5 J. Eisele," a document marked T-1?

6 A Yes I did.

7 Q And are there any additions, corrections or modifica-
8 tions that you would care to make in that -- to your
9 pre-filed testimony at this time?

10 A No.

11 Q I'd move for the admission of that.

12 MR. JACKSON: Any objections? Okay, that is
13 admitted as T-1, and we'll note that, as attachments to
14 T-1, there are three attachments which are denoted EJE1, 2,
15 and 3.

16 Q Thank you Mr. Hearing Examiner. I have no further
17 questions, Mr. Eisele.

18 MR. JACKSON: Mr. Smith, do you have any
19 cross-examination of Mr. Eisele?

20 MR. SMITH: No. Thank you.

21 MR. JACKSON: I have no questions. Thank you very
22 much for appearing.

23 MR. HACKETT: I understand that we can stipulate
24 that Mr. Shechter's pre-filed testimony, T-2, can be
25 admitted?

1 MR. JACKSON: Mr. Smith, I understand from our
2 earlier conversation, that we're going to stipulate the
3 admissibility of that testimony and accept it without
4 cross-examination?

5 MR. SMITH: Yes.

6 MR. JACKSON: Okay. That testimony will be marked
7 as T-2, or -- were there any attachments to that testimony?

8 MR. HACKETT: No . . .

9 MR. JACKSON: Okay.

10 MR. HACKETT: . . . no, there were not. We call
11 Mr. Honchen as our next witness.

12 MR. SMITH: I'm sorry, who?

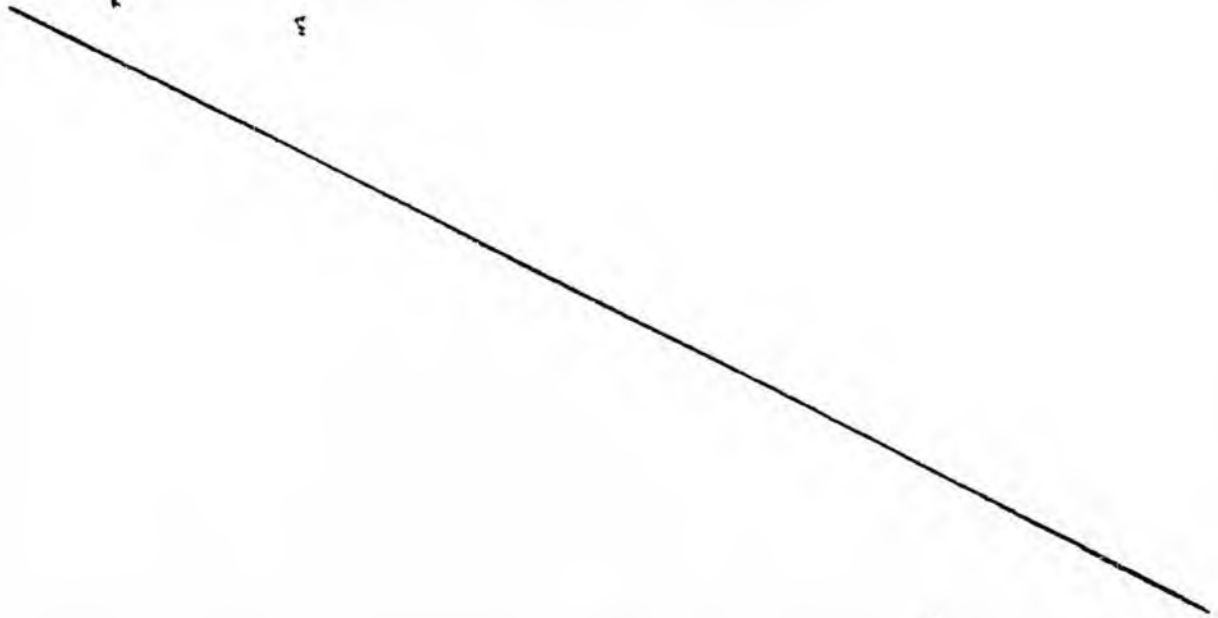
13 MR. HACKETT: Mr. Larry Honchen.

14 MR. SMITH: Okay.

15 LARRY HONCHEN

16 called as a witness, testified as follows:

17
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19
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24
25



Introduced: 2/22/85
Referred: Community and Regional Affairs

IN THE SENATE

BY THE COMMUNITY AND REGIONAL
AFFAIRS COMMITTEE

SENATE JOINT RESOLUTION NO. 18

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - FIRST SESSION

Disapproving the recommendation of the
Local Boundary Commission for annexation
of territory to the City of Togiak.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

WHEREAS, under art. X, sec. 12, Constitution of the State of Alaska, the Local Boundary Commission has presented to the legislature its recommendation number two dated January 23, 1985, entitled "Recommendation for the Annexation of Territory to the City of Togiak"; and

WHEREAS a recommendation of the Local Boundary Commission presented to the legislature becomes effective 45 days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by the majority of the members of each house;

BE IT RESOLVED by the Alaska State Legislature that recommendation number two of the Local Boundary Commission dated January 23, 1985, and entitled "Recommendation for the Annexation of Territory to the City of Togiak" is disapproved.

COMMITTEE TAPE LOG

TAPE No. 1

1985

LOG SHEET No. 2

DATE(S) 2/19/85

COMMITTEE: _____

BILL NUMBERS:

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OTHER INFORMATION: _____

DATE/ TIME	TAPE METER No.	BILL NUMBER	SIGNIFICANT INFORMATION (WITNESS/ACTION)
			There was a
			Move of making more
			service areas-- Coastal
			zone as a service area
			See more fracturing
			+ less coordination!
			This work has more
			or less stopped since the
			^{money came}
	150		Senator Fischer (Commented
			on Constitutional Convention action)
			Before ^{on formation of local governments} statehood in
			Constitutional Convention
			asked what about
			local govt. Then we
			had cities There was
			congressional prohibition
			against forming counties.
			Had massive territory
			of Ak.

COMMITTEE TAPE LOG

TAPE No. 1

1985

LOG SHEET No. 3

DATE(S) 2/19/85

COMMITTEE: _____

BILL NUMBERS:

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OTHER INFORMATION: _____

DATE/ TIME	TAPE METER NO.	BILL NUMBER	SIGNIFICANT INFORMATION (WITNESS/ACTION)
			Had only 1st + 2nd class cities.
			Question was where do we go -- what do we do? Conviction was we needed something flexible, adaptable to any part of Ak
			Rough concept emerged creating new form of flexible regional institution that could evolve into a gov't.
			Reason was to have local institutions responsive to people without overlapping tax jurisdictions.

COMMITTEE TAPE LOG

TAPE No. 1

1985

LOG SHEET No. 4

DATE(S) 2/19/85

COMMITTEE: _____

BILL NUMBERS:

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OTHER INFORMATION: _____

DATE/ TIME	TAPE METER No.	BILL NUMBER	SIGNIFICANT INFORMATION (WITNESS/ACTION)
			Borough was new creature.
			Gradually process
			evolved into belief it
			was workable.
			Real commitment to
			home ruling.
			Idea of organized &
			unorganized born out of
			Constitutional Convention
			Local Gov't Committee.
			Idea was that gov't
			could progress from
			least government to
			Home Rule. Provided
			for Local Boundary
			Commission to make
			adjustments.

COMMITTEE TAPE LOG

1985

TAPE No. 1

LOG SHEET No. 6

DATE(S) 2/19/85

COMMITTEE: _____

BILL NUMBERS:

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OTHER INFORMATION: _____

DATE/ TIME	TAPE METER No.	BILL NUMBER	SIGNIFICANT INFORMATION (WITNESS/ACTION)
			In the unorganized borough people cannot exercise self-governance. We're approaching point where rural areas want to organize into a borough. Legislature may extend Home Rule to other boroughs & cities. We have Home Rule boroughs ^{or} 2 cities & all others are gov'l law boroughs & cities. When you become 1st class borough you have to exercise certain powers. There's no reason for that to have to happen.

COMMITTEE TAPE LOG

TAPE No. 1

1985

LOG SHEET No. 7

DATE(S) 2/19/85

COMMITTEE: _____

BILL NUMBERS:

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OTHER INFORMATION: _____

DATE/ TIME	TAPE METER No.	BILL NUMBER	SIGNIFICANT INFORMATION (WITNESS/ACTION)
			Formal charter is as important in things it does you cannot do as in the powers it authorizes. Interest in organizing boroughs in rural Ak is growing.
	518		Rep Hall (questions) How Organization of gov't at local or regional level are desirable but should remain flexible. Something should be done about responsibility in self governing gov'ts.

COMMITTEE TAPE LOG

TAPE No. 1

1985

LOG SHEET No. 8

DATE(S) 2/19/85

COMMITTEE: _____

BILL NUMBERS:

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OTHER INFORMATION: _____

DATE/ TIME	TAPE METER No.	BILL NUMBER	SIGNIFICANT INFORMATION (WITNESS/ACTION)
			3rd class borough & call borough of limited powers V. Fischer
	652		2nd class borough came about through an accident.
	662		Rep Hall. I'm not sure organization of unorganized borough is good idea unless people want it.
	689		Strojnowski
	699		Rep Marrow has been in state 11 1/2 years.

COMMITTEE TAPE LOG

TAPE No. 1

1985

LOG SHEET No. 10

DATE(S) 2/19/85

COMMITTEE: _____

BILL NUMBERS:

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OTHER INFORMATION: _____

DATE/TIME	TAPE METER NO.	BILL NUMBER	SIGNIFICANT INFORMATION (WITNESS/ACTION)
	778		Sturgeslewski
	801		U Fucher I would suggest dividing Ak into a series of unorganized boroughs.
	827		Rep. Goll Do people share your position.
	837	Rep. Goll	
	842		U Fucher Nanana + Bethel Persons would be organized if they did not have to assume taxation and school administration responsibilities.

COMMITTEE TAPE LOG

TAPE No. 1

1985

LOG SHEET No. 11

DATE(S) 2/19/85

COMMITTEE: _____

BILL NUMBERS:

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OTHER INFORMATION: _____

DATE/ TIME	TAPE METER No.	BILL NUMBER	SIGNIFICANT INFORMATION (WITNESS/ACTION)
			Not sure would be sensible to set up unorganized borough in Southeast Ala. Should ask what are the overriding common interests: transportation, power, etc. Could pay to state as unorganized borough we have these overriding priorities.
	946		Jill Smythe We are on the receiving end. Guess there is proposed borough to include Baldiey, & Cordova.

COMMITTEE TAPE LOG

TAPE No. 1

1985

LOG SHEET No. 12

DATE(S) 2/19/85

COMMITTEE: _____

BILL NUMBERS:

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OTHER INFORMATION: _____

DATE/TIME	TAPE METER No.	BILL NUMBER	SIGNIFICANT INFORMATION (WITNESS/ACTION)
	978		V. Fischer says the LBC should propose criteria.
	998		Smith We get 1 borough at a time
	997		Rep Hall
	1022		V. Fischer
	032		Rep. Marrou Would be opposed to making things easy to organize.

COMMITTEE TAPE LOG

TAPE No. 1

1985

LOG SHEET No. 13

DATE(S) 2/19/85

COMMITTEE: _____

BILL NUMBERS:

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OTHER INFORMATION: _____

DATE/TIME	TAPE METER No.	BILL NUMBER	SIGNIFICANT INFORMATION (WITNESS/ACTION)
	070		U. Zucher Things have escalated
	087		Joe Anderson The money incentive to organize a borough
	101		Rep Marrow Law Months \$100,000 over 3 years to areas petitioning to organize
	104		U. Zucher That is a tiny part of the whole
	111		De Vries That is well worth the money to get the rural areas to organize

COMMITTEE TAPE LOG

TAPE No. 1

1985

LOG SHEET No. 14

DATE(S) _____

COMMITTEE: _____

BILL NUMBERS:

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OTHER INFORMATION: _____

DATE/ TIME	TAPE METER No.	BILL NUMBER	SIGNIFICANT INFORMATION (WITNESS/ACTION)
	123		Bill Smythe
	128		Rep. Goll Prince of Wales Island. Idea of getting together is rejected. Have organized for health services that is functional. Tax issue worries them.
	192		Rep. Goll
	204		V. Zucker
	212		Rep. Marston Will never get people in unorganized areas to organize without

COMMITTEE TAPE LOG

TAPE No. 1

1985

LOG SHEET No. 15

DATE(S) 2/19/85

COMMITTEE: _____

BILL NUMBERS:

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OTHER INFORMATION: _____

DATE/ TIME	TAPE METER NO.	BILL NUMBER	SIGNIFICANT INFORMATION (WITNESS/ACTION)
			removing incentives.
	235		V. Fischer ^{State providing} \$100,000 is irrelevant. Comes down to what taxable property they have + what potential revenues. *
	265		Jill Smythe Not sure long term benefit is derived from providing large sum of money to new ^{preparing} borough. They have no revenue to maintain new bldg(s).
	283		Rep. Marrou

COMMITTEE TAPE LOG

1985

TAPE No. 1

LOG SHEET No. 16

DATE(S) 2/19/85

COMMITTEE: _____

BILL NUMBERS:

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OTHER INFORMATION: _____

DATE/ TIME	TAPE METER No.	BILL NUMBER	SIGNIFICANT INFORMATION (WITNESS/ACTION)
	296		Sen. DeVries Allow group wanting to organize to have an advisory vote.
	313		Jill Smythe ^{petition for} incorporation They do vote afterwards.
	324		Rep Holl Hardest things to deal with are people who falsify their voter registration
	344		Jill Smythe (Nabeena) There were 13 residents there. Most of the people were from Pune.

COMMITTEE TAPE LOG

1985

TAPE No. 1

LOG SHEET No. ~~16~~ 17

DATE(S) _____

COMMITTEE: _____

BILL NUMBERS:

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OTHER INFORMATION: _____

DATE/TIME	TAPE METER No.	BILL NUMBER	SIGNIFICANT INFORMATION (WITNESS/ACTION)
	366		Senator DeVries
	369		Jill Smythe In Nabesna Questionable there were 25 registered voters. Went proposing to provide local gov't serv.
	387		Jill Smythe (Nabesna) Asked if they had considered forming community assn. They had not.
	394		Rep Goll spoke about bill. Requires advisory vote. Area to be addressed would be Goll. Want to make

THE FOLLOWING DOCUMENT HAS
NOT BEEN FILMED BUT IS
AVAILABLE IN THE ORIGINAL
FILE

The nautical chart has been designed to promote safe navigation. The National Ocean Service encourages users to submit corrections, additions, or comments for improving this chart to the Director, Charting and Geodetic Services, Attention N/CG22, National Ocean Service, NOAA, Rockville, Maryland 20852.

173°

172°

171°

170°

169°

RADAR REFLECTORS

Radar reflectors have been placed on many floating aids to navigation. Individual radar reflector identification on these aids has been omitted from this chart.

POLLUTION REPORTS

Report all spills of oil and hazardous substances to the National Response Center via 800-424-8802 (toll free), or to the nearest U.S. Coast Guard facility if telephone communication is impossible (33 CFR 153).



UNITED STATES
ALASKA

**ALASKA PENINSULA AND
ALEUTIAN ISLANDS TO SEGUAM PASS**

Mercator Projection
Scale 1:1,023,188 at Lat. 56°00'
North American 1927 Datum

**SOUNDINGS IN FATHOMS
AT MEAN LOWER LOW WATER**

For Symbols and Abbreviations see Chart No. 1

COLREGS, 80.1705 (see note A)
International Regulations for Preventing Collisions at Sea, 1972.

The entire area of this chart falls seaward of the COLREGS Demarcation Line.

HEIGHTS

Heights in feet above Mean High Water.

AUTHORITIES

Hydrography and topography by the National Ocean Service, Charting and Geodetic Services with additional data from the Corps of Engineers, Geological Survey, Defense Mapping Agency, and U.S. Coast Guard.

LOCAL MAGNETIC DISTURBANCE

Differences from the normal variation of as much as 14° have been observed along the Alaska Peninsula between 158° and 163°W.

CHANGES in BUOYAGE

Masters are advised that demarcated aids to navigation are being changed to conform to maritime standards of the International Association of Lighthouse Authorities Maritime Buoyage System, Paper B. Significant changes are: black port hand buoys to green, black and white vertically striped buoys to red and white vertically striped buoys, and lateral lights from white to red or green as appropriate. Changes to aids to navigation will be announced in the Defense Mapping Agency Hydrographic/Topographic Center weekly Notice to Mariners and the U.S. Coast Guard Local Notice to Mariners.

59°

60

58°

