

Local
Boundary
Commission

3 of 4



Official Business

Alaska State Legislature

Senate

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State Capitol
Juneau, Alaska 99811

FEB 25 1986

MEMORANDUM

TO: Senator Edna DeVries, Chairman
Senate Community and Regional Affairs
Committee

FROM: Frank R. Ferguson *FR*
Alaska State Senate

DATE: February 25, 1986

SUBJ: North Slope Detachment

Attached for your information is an article which was in the Northland News (Fairbanks). I thought this would be of interest to your committee.

Thank you.

FRF/mjs

Attachment

*Forwarded w/atch to members
of Senate C&RA 3/3/86*

-y-

Preparations for borough vote begin

By DAN JOLING

News-Miner Bureau

JUNEAU—It's been nearly 14 years since a new borough formed in Alaska, so the state Department of Community and Regional Affairs may be a little rusty in the routine as it oversees a possible new borough in the Northwest corner of the state.

"Needless to say, we're pretty excited about all this," said Deputy Commissioner Jeff Smith of the proposed Northwest Arctic Borough.

The last borough to form was the vast North Slope Borough, which came into being July 1, 1972. The Northwest Arctic Borough would contain 2.1 million acres, including a portion of what's now in the North Slope Borough.

The new political unit would match the boundaries of NANA Inc., the Northwest Arctic Native Association, as well as the Northwest Arctic School Board.

The proposed detachment was hotly contested by officials of the North Slope Borough. Although approved by the Local Boundary Commission, the Legislature has until midnight March 8 to overturn detachment. If it's not overturned, the Local Boundary Commission must next decide if the area has met the standards set by law for incorporation.

Assuming an affirmative decision, the commission will inform the lieutenant governor, who has 30 days to choose a date for an election for voters to approve incorporation. The election has to be at least 30 days and no more than 120 days after its announcement of the election.

"We're working toward a May 20 election," Smith said.

Residents of the proposed borough would pick a mayor and 11 assembly members on the same ballot as their decision about forming the new borough, said Dan Bockhorst, a grants supervisor in the department's Division of Municipal and Regional Assistance.

Candidates must be registered to vote, at least 18 years old, residents of the state and the area for at least 30 days, and in agreement to serve if elected. To get on the ballot, they must turn in a petition with 50 signatures of residents.

The 11-member assembly would represent districts but be elected at large. That means candidates must be residents within the district they seek to represent and all residents will vote on all candidates.

That matches how members of the Northwest Arctic School Board are elected now.

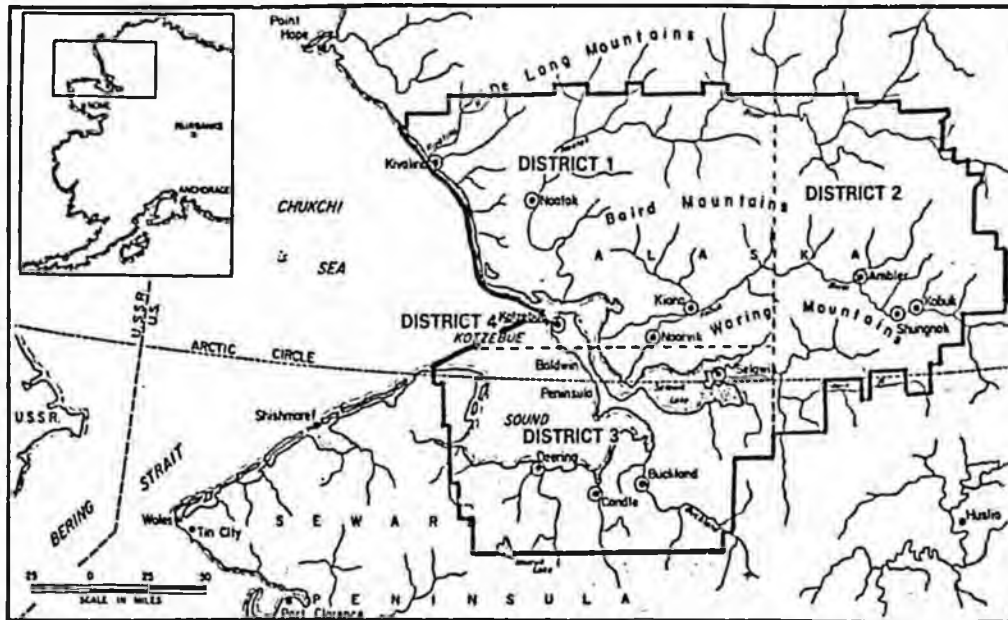
Kotzebue, with a population of 2,054, would have five seats or one per every 410.8 people. A district composed of Kivalina, Nootak, Kiana, Noorvik and Baird Mountains would have three seats for 1,405 people, or one for every 468.6 people. One representative would cover Ambler, Shugnak, Kobuk and the rest of the Kobuk area, where an estimated 457 people reside.

Two seats would be picked from Selawik, Deering, Buckland, Candle, Fink Creek, the Selawik area and Baldwin Peninsula, which have 914, or 457 per representative.

If the vote is against forming the borough, the land will not be detached. Smith said the state has no interest in seeing land go from a borough to an unorganized area.

Assuming a positive vote, "I would think they'd be in business no later than July 1" once the election is certified, Smith said.

The new borough would begin life



DISTRICT 1: Seats A, B, C

DISTRICT 2: Seats D

DISTRICT 3: Seats E, F

DISTRICT 4: Seats G, H, I, J, K

debt-free. However, even supporters acknowledge that it will be able to afford only the minimal services required by law until the tax rolls grow from anticipated Red Dog Mine development.

Those minimum powers include area-wide power of education, assessment and tax collection, and land use, including platting and planning.

State law provides that there will be some financial help for start-up costs. A new borough receives \$300,000 from the state its first year of existence, \$200,000 the second, and \$100,000 the third.

The Community and Regional Affairs Department will also provide technical assistance, especially in the area of assessment and setting up an effective tax system.

According to briefs filed in the application for detachment, the projected budget for the new borough is \$21.6 million. The biggest chunk by far is \$20 million for education. The remainder is planned for mayoral and assembly operations (\$329,570), the administration and finance department (\$243,675), the planning and community affairs department, (\$200,255), the law department

(\$40,000), and the assessing department (\$111,000).

For staffing, the plan calls for paid positions of mayor, administrative assistant, borough clerk and a secretary. The finance department would hire a director/controller, one full-time accountant and one part-time accountant.

Planning and community affairs would require a planning director, a planner and a part-time secretary. Legal advice would be purchased by contract.

One of the biggest tasks will be setting up the assessing department, and Bockhorst said the department is attempting to estimate the cost of assessments as well as estimate the time it will take for getting the job done.

The job involves determining what land and property is private, its value and whether it's subject to taxation.

"It's a fairly phenomenal and involved task," Bockhorst said.

Ten of the 11 communities are organized in the proposed borough. "None of them levy a property tax. You're starting from scratch," Bockhorst said.

It's critical to have assessments done by the end of the year so that

collections can begin in 1987, Bockhorst said.

The budget proposes no sales tax, but a 3-mill real property tax assessment is expected to produce \$377,000. State funding is expected for the rest of revenues.

Bockhorst said his department is roughing out figures for anticipated property tax earnings in the future, and four years from now, they could climb to more than \$1 million.

The initial budget anticipates state education funding to provide \$20.7 million. An organizational grant would account for \$300,000, municipal assistance for \$35,000, revenue sharing for \$65,000, a coastal management grant for \$142,500, and fisheries tax shared revenues for \$5,000.

Taxable real property was estimated to be \$139.6 million.

Smith said he expects the borough to adopt the home-rule charter government within a year or two.

That would mean they would write their own charter laying out what services they'll provide.

A home-rule municipality can provide any services that are not prohibited by law.

Community and Regional Affairs officials will visit the proposed borough all next week for informational meetings in each of the 11 villages.

Bockhorst said department representatives will give a presentation and collect information to help the Local Boundary Commission decide on approving or rejecting incorporation.

Slope cries foul over state review

by Mary Scarpinato
Times Writer

While one department of state government has proposed slicing off more than 2 million acres of the North Slope Borough for a new local government, another state government department has been chosen to review the proposal.

It's a choice that's hardly fair, according to the borough, which stands to lose the highly-prized Red Dog lead-zinc deposit under the land "detachment" being proposed by the Department of Community and Regional Affairs.

The borough had wanted some consultant outside government for the review.

"It simply rankles," assistant borough attorney David Weber said after Community and Regional Affairs officials suggested the Office of Management and Budget as the review agency.

However, the state Local Boundary Commission decided Wednesday night that OMB's staff had the professional expertise for the job, and heard advice from the state attorney general's office that one department overseeing another was both proper and usual practice.

Commissioner David Hanson added that the Local Boundary Commission "has a long track record of being very independent from the recommendations" of government agencies and weighs such recommendations against public hearing testimony and other information.

In the last 1½ years, Hanson said the boundary commission has either rejected or modified 30 to 40 percent of the government recommendations placed before it.

Proposals such as the North Slope Borough detachment must be approved by the boundary

commission in order to be passed on to the legislature for final approval.

During the meeting debate before the boundary commission's decision, Weber had argued that one department reviewing another's work was "a close legal question."

He told the commissioners, "You are entitled to a consultant that will serve the commission and no other master."

The detachment was first sought by NANA Regional Corp., the powerful Kotzebue-based native firm that owns the massive Red Dog deposit.

NANA wants a new borough formed in Northwest Alaska so more local control can be exerted over the mine, said William Hensley, president-elect of NANA.

"We do want ability to control the development of our mine," Hensley said at the boundary commission's Wednesday meeting. "We do want to enjoy the environmental controls, platting and taxing powers they have in the North Slope (over such developments as the Prudhoe Bay oil and gas fields)."

North Slope Borough voters turned down NANA's proposal for a detachment in an October election. After that, the Community and Regional Affairs Department took up the proposal, saying that the state also wishes to encourage local governments.

The boundary commission will take up the detachment question again at a Dec. 7 meeting, when it will hear debate on how many public hearings should be held on the proposal.

NANA believes it would be sufficient to hold two — one in Kotzebue and one in Barrow. However, the North Slope Borough wants more extensive hearings.

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

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

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

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

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

SUMMARY OF PROPOSED ACTION

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

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

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

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

FINDINGS OF FACT

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

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

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

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

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

Dissolution of Municipal Governments

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

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

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

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

Policy questions relating to this matter include the following:

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

Federal Voting Rights Act

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

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

8. The petitioner indicated that residents of the community desire the City to regulate, to the extent possible, development and tourist activity on the Angoon Community Association (IRA) parcel in the Hood Bay area and in the general vicinity of Hood Bay. Annexation of the territory would provide the City with the authority to do so.
9. Three land owners of the Hood Bay area opposed the annexation petition. The landowners submitted a letter to the Local Boundary Commission objecting to the annexation contending that is nothing to be gained by the annexation, either by the City or themselves. There is one permanent resident living in this area.
10. The Kootznoowok Corporation, the local village Native corporation, owns approximately 190 acres of Killisnoo Island and another 3,200 acres adjacent to the community. In addition, there are five Native Allotments within the territory proposed for annexation. The U.S. Forest Service Admiralty Monument is the largest land holder within the area proposed for annexation. The potential for many private land transfers and the prospect of upcoming ANCSA 14(c) land conveyances to residents and the City of Angoon have raised concerns regarding future development on important cultural and subsistence lands.
11. The population of a portion of the territory, specifically Killisnoo Island and Favorite Bay, may stem from growth of the City beyond its legal boundaries. Most of the territory proposed for annexation contains very steep slopes and is fairly remote. Growth is more likely to occur on Killisnoo Island. The growth may be attributed to a "spilling over" of present City population and the availability of City services such as sewer, water, police and fire protection.
12. Portions of the territory to be annexed may be valuable for reason of their suitability for prospective urban purposes. Specifically, Killisnoo Island may be suitable for additional residential development. The Island is immediately adjacent to the present City limits, and is most likely to receive City services in the future.
13. There are no other municipalities in or near the territory proposed for annexation.
14. The City maintains that its volunteer fire department is in the position to provide service to the Killisnoo Island area. The City also states that it now currently serves

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

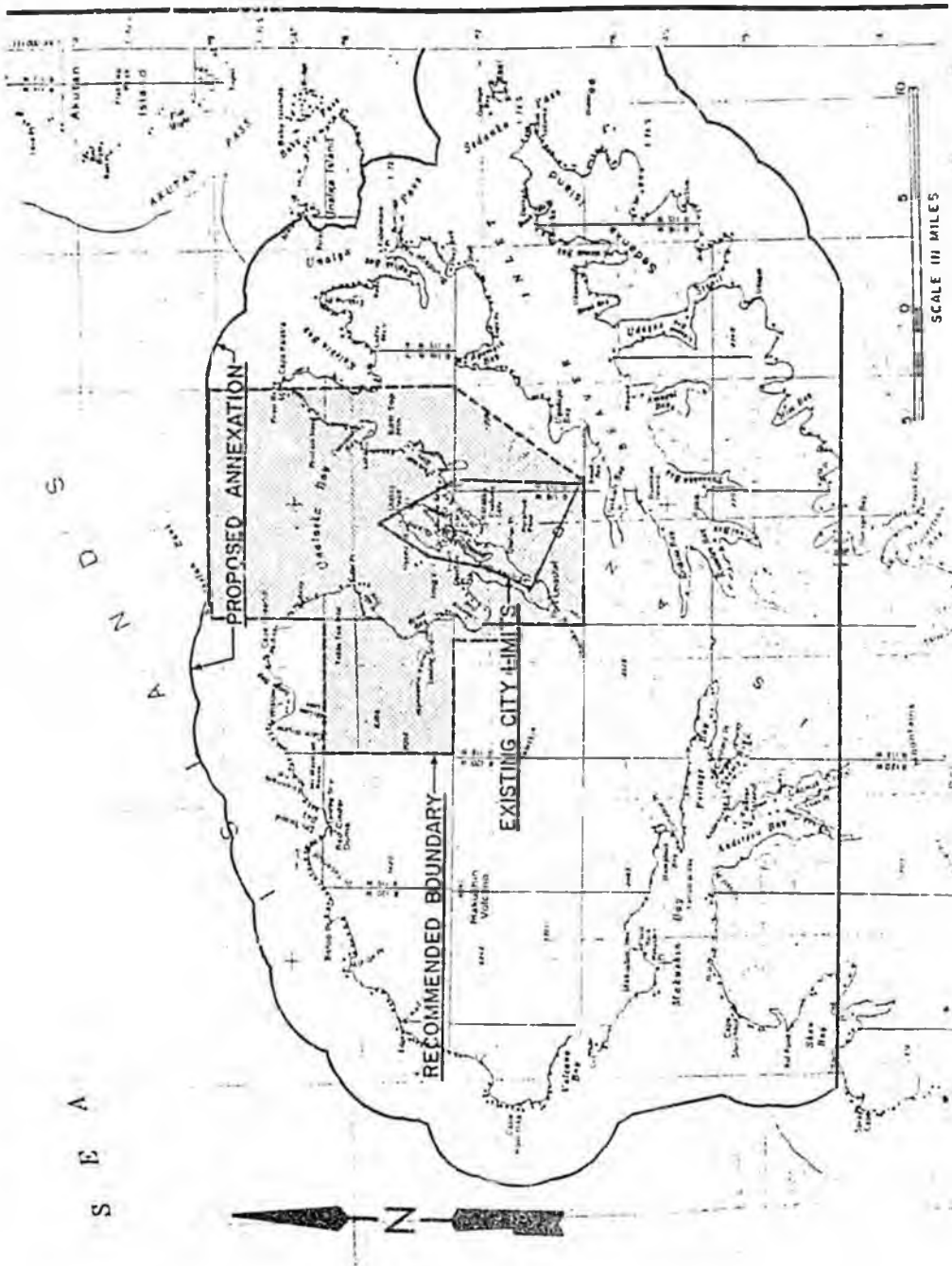
15. Fire service is provided by the Federal government for all Federal lands and for Kootznoowoo corridor lands in Mitchell, Kanalku and Favorite Bays.
16. The City may be called upon to provide emergency services to Killisnoo Island, which is adjacent to the City and most likely to develop. The City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

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

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

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

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



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

CONCLUSIONS OF LAW

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

STATEMENT OF DECISION

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

Upon tacit approval of the Second Session of the Fourteenth Legislature under the provisions of Article X, Section 11 of the State Constitution, the municipal boundaries of the City of Angoon shall be as follows:

Beginning at the NW corner Section 2, T51S, R67E, Copper River Meridian (C.R.M.); thence S to the SW corner of Section 11, T51S, R67E, C.R.M.; thence E to the SE corner of Section 7, T51S, R68E, C.R.M.; thence S to the SW corner of Section 20, T51S, R68E, C.R.M.; thence E to the SE corner of Section 20, T51S, R68E, C.R.M.; thence S to the SW corner of Section 23, T51S, R68E, C.R.M.; thence E to the SE corner of Section 23, T51S, R68E, C.R.M.; thence N to the SW corner of the NW 1/4 of Section 10, T52S, R68E, C.R.M.; thence E to the center of Hood Bay; thence meandering in an easterly direction along the center of Hood Bay to the center of North Arm of Hood Bay; thence meandering in a northeasterly direction along the center of North Arm of Hood Bay to a point with its intersection with the east boundary of Section 5, T52S, R69E, C.R.M.; thence N to the NE corner of Section 5, T52S, R69E, C.R.M.; thence W to the NW corner of Section 2, T52S, R68E, C.R.M.; thence N to the NE corner of Section 22, T51S, R68E, C.R.M.; thence E to the SE corner of Section 13, T51S, R63E, C.R.M.; thence N to the NE corner of Section 12, T51S,

R63E, C.R.M.; thence W to the NW corner of Section 10, T51S, R63E, C.R.M.; thence N to the NE corner of Section 4, T51S, R63E, C.R.M.; thence W to the NW corner of Section 4, T51S, R63E, C.R.M.; thence N to the NE corner of Section 12, T50S, R63E, C.R.M.; thence W to the NW corner of Section 12, T50S, R63E, C.R.M.; thence N to the NE corner of Section 19, T50S, R63E, C.R.M.; thence W to the NW corner of the NE 1/4 of the NE 1/4 of Section 23, T50S, R67E, C.R.M.; thence S to the NW corner of the NE 1/4 of the NE 1/4 of Section 2, T51S, R67E, C.R.M.; thence W to the NW corner of Section 2, T51S, R67E, C.R.M.; the point of beginning.

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

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

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

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

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

CONCLUSIONS OF LAW

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

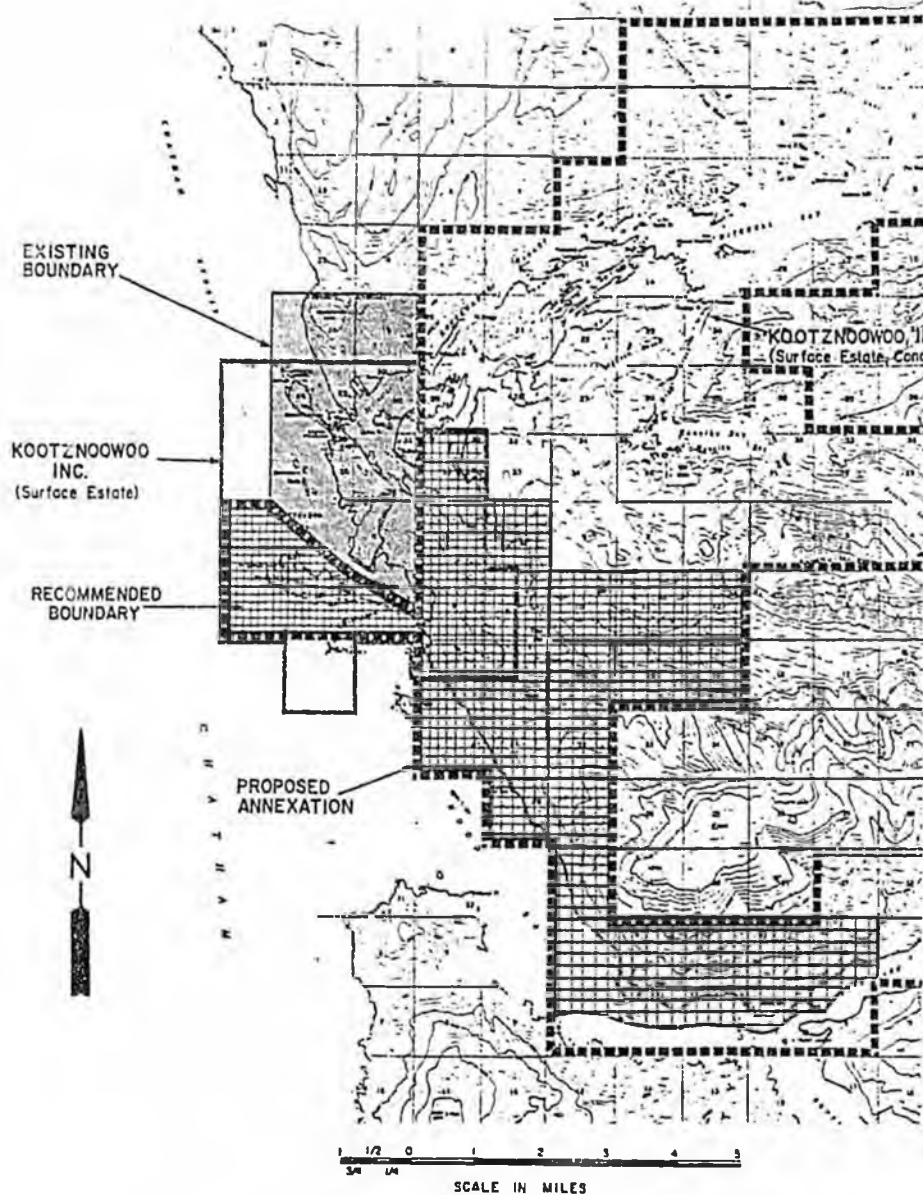
STATEMENT OF DECISION

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

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

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

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



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

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

SUMMARY OF PROPOSED ACTION

On June 26, 1985, the City of Ketchikan petitioned for the annexation of approximately 515.62 acres contiguous to the City and described as the BLM-KPU Additions. On November 24, 1985, the Local Boundary Commission held a public hearing in Ketchikan on the petition. The petition was submitted pursuant to Section 29.68.013(a) of the Alaska Statutes (i.e. the process which requires concurrence from the Legislature).

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

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

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

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

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

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

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

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

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

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

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

FINDINGS OF FACT

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

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

CONCLUSIONS OF LAW

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

STATEMENT OF DECISION

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

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

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

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

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

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

FINDINGS OF FACT

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

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

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

SUMMARY OF PROPOSED ACTION

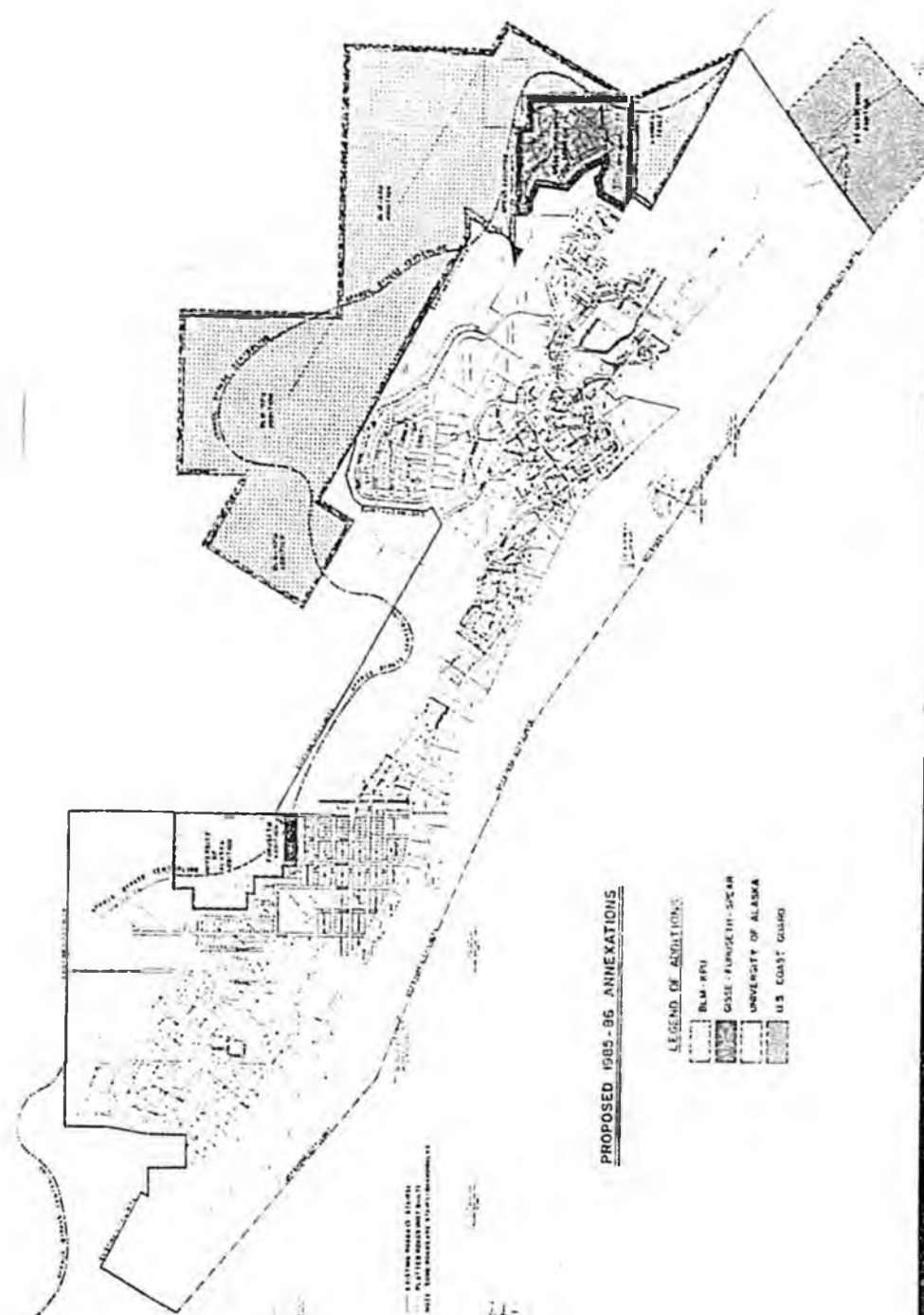
On August 21, 1985, the City of Unalaska petitioned for the annexation of approximately 1,294 square miles of territory contiguous to the City and described as Unalaska Island north of Township 76 and the islands of Sedanka, Hog, Egg and Amaknak, including the territory three nautical miles seaward from these islands. On January 4, 1986, the Local Boundary Commission conducted a public hearing in Unalaska on the petition. The petition was submitted pursuant to Section 29.66.010(a) of the Alaska Statutes (i.e. the process which requires concurrence from the Legislature).

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

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

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

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



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

IN THE MATTER OF THE PETITION)
FOR ANNEXATION BY THE CITY OF)
KETCHIKAN, ALASKA OF)
APPROXIMATELY 59.609 ACRES)
CONSISTING OF THREE SEPARATE)
PARCELS, COLLECTIVELY DESCRIBED)
AS THE GISSE-FURUSETH-SPEAR)
ADDITIONS)

SUMMARY OF PROPOSED ACTION

On June 26, 1985, the City of Ketchikan petitioned for the annexation of three separate areas totalling approximately 59.609 acres of land contiguous to the City. The referenced petition was submitted pursuant to Section 29.68.013(a) of the Alaska Statutes (i.e. the process which requires Legislative concurrence).

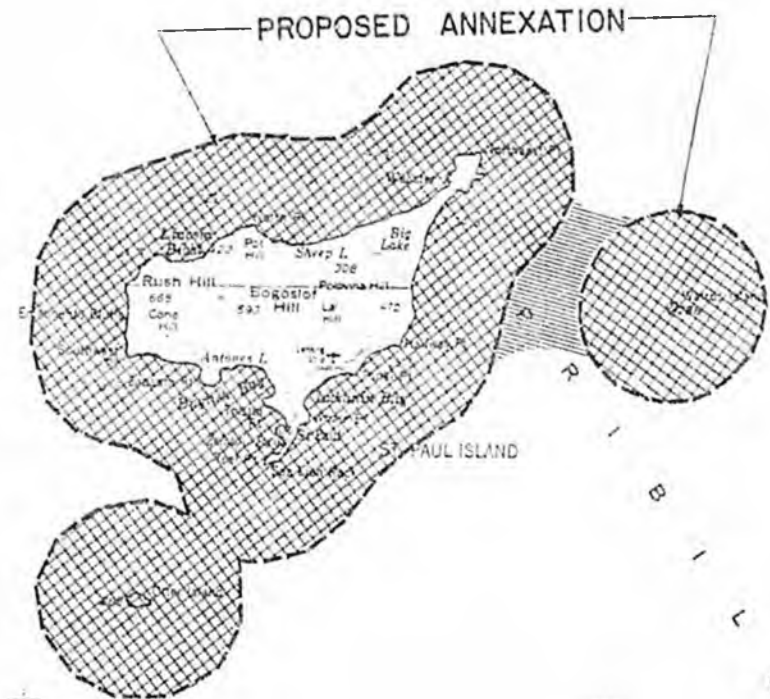
The territory proposed for annexation consists of the three parcels identified and described as follows and collectively described as the Gisse-Furuseth-Spear Additions:

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

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

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

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



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

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

CONCLUSIONS OF LAW

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

STATEMENT OF DECISION

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

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

All of the territory contained within a three nautical (geographical) mile perimeter and lying above the mean low water line surrounding St. Paul Island, Sea Lion Rock, Walrus Island and Otter Island of the Pribilof Group at Latitude 57° 13' N and Longitude 170° 15' W.

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

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

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

FINDINGS OF FACT

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

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

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

CONCLUSIONS OF LAW

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

STATEMENT OF DECISION

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

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

Gisse-Furusetn Addition

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

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

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

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

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

FINDINGS OF FACT

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

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

thence N-64°52'00"-E a distance of 60.26 feet;
 thence N-85°16'00"-E a distance of 81.61 feet;
 thence N-70°22'00"-E a distance of 84.19 feet;
 thence N-33°56'00"-E a distance of 78.15 feet;
 thence S-38°42'00"-E a distance of 74.86 feet;
 thence S-59°18'00"-E a distance of 57.46 feet;
 thence S-73°59'00"-E a distance of 129.34 feet;
 thence N-29°21'17"-W a distance of 309.00 feet;
 thence N-47°23'23"-W a distance of 355.00 feet;
 thence N-6°40'44"-E a distance of 352.94 feet;
 thence North a distance of 87.00 feet;
 thence N-66°29'31"-W a distance of 239.64 feet;
 thence West a distance of 126.00 feet;
 thence N-39°10'00"-W a distance of 115.01 feet;
 thence North a distance of 178.24 feet;
 thence East a distance of 1311.97 feet;
 thence South a distance of 147.18 feet;
 thence East a distance of 460.35 feet;
 thence South a distance of 1623.60 feet;
 thence West a distance of 1483.68 feet to the point of beginning.

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

Spear Addition

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

Beginning at corner 1 of U.S.S. 2635 according to the official government plat thereof;
 thence S-21°47'-W a distance of 34.65 feet;
 thence East a distance of 116.94 feet;
 thence S-23°00'00"-W a distance of 140.89 feet;
 thence N-59°34'-W a distance of 255.40 feet;
 thence N-79°-15'-E a distance of 174.24 feet to the point of beginning.

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

Furusetz Addition

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

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

thence N-89°43' -W a distance of 299.83 feet;
 thence North a distance of 15 feet;
 thence N-89°43' -W a distance of 175.27 feet;
 thence along a curve concave to the South, (Radius=30
 feet) an arc distance of 23.24 feet;
 thence along a curve concave to the North (Radius=30
 feet) an arc distance of 77.38 feet;
 thence N-89°48' -W a distance of 100.42 feet;
 thence North a distance of 200.00 feet;
 thence S-89°48' -E a distance of 650.00 feet;
 thence South a distance of 200.00 feet to the point of
 beginning.

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

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

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

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

SUMMARY OF PROPOSED ACTION

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

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

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

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

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

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

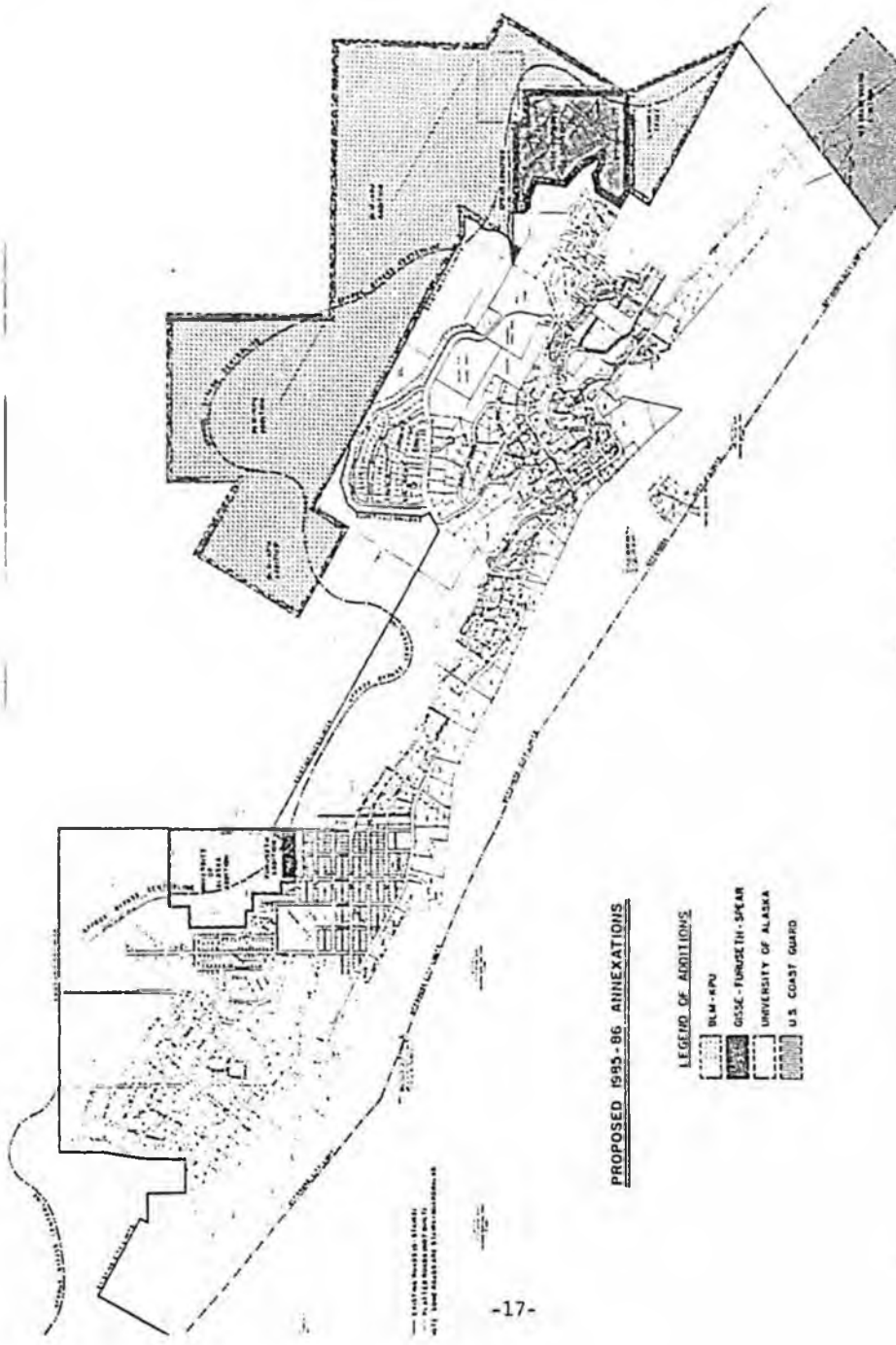
*Property Annexation
to City of North Pole*



ROEN
DESIGN ASSOCIATES
1000 W. 10TH AVENUE
NORTH POLE, ALASKA 99705
TEL. 837-1111
FAX 837-1112

Existing Area 2.51 sq miles
Added Area 1.14 sq miles
Total Area 3.65 sq miles

Existing City Boundary
Signed City Boundary



PROPOSED 1995-96 ANNEXATIONS

LEGEND OF ADDITIONS
 BLM-FPU
 GISC-FUNDGTH-SPEAR
 UNIVERSITY OF ALASKA
 U.S. COAST GUARD

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

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

SUMMARY OF PROPOSED ACTION

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

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

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

FINDINGS OF FACT

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

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

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

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

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

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

FINDINGS OF FACT

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

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

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

CONCLUSIONS OF LAW

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

STATEMENT OF DECISION

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

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

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

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

thence West a distance of 1117.31 feet;
thence South a distance of 300.00 feet;
thence West a distance of 297.70 feet;
thence South a distance of 856.12 feet;
thence S-89°48'-E a distance of 236.46 feet;
thence S-0°12'-W a distance of 100.00 feet;
thence S-89°48'-E a distance of 245.00 feet;
thence S-0°12'-W a distance of 440.00 feet;
thence S-89°43'-E a distance of 161.92 feet;
thence South a distance of 200.00 feet;
thence S-89°48'-E a distance of 36.21 feet;

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

The hereinabove described parcel of land contains 43.30 acres,
 more or less.

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

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

SUMMARY OF THE PROPOSED ANNEXATION

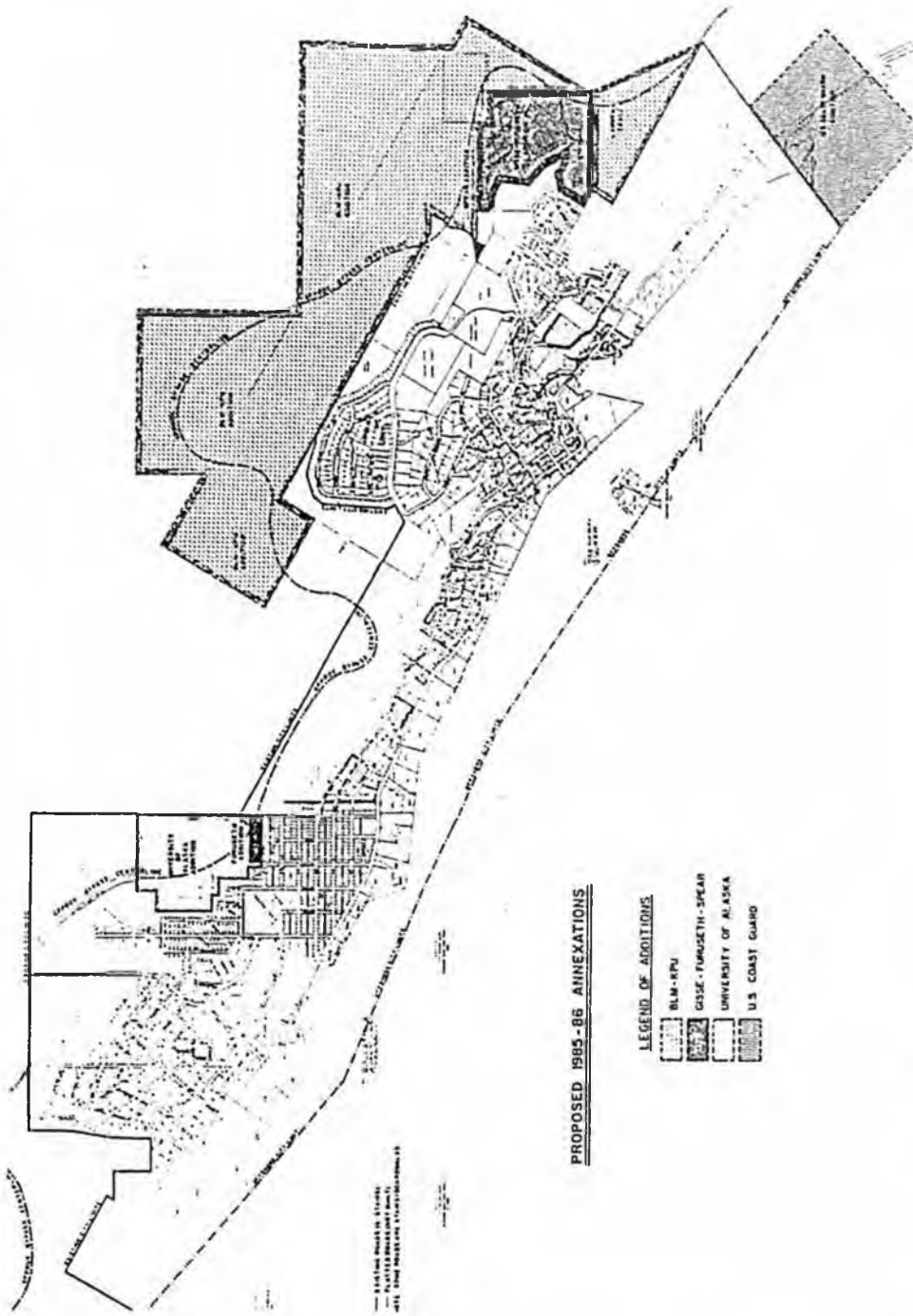
On June 10, 1985, the City of North Pole petitioned for the
 annexation of three separate areas totalling approximately
 729.6 acres (1.14 square miles) of land contiguous to the
 City. The annexation proposal was made pursuant to Section
 Article X Section 12 of the State Constitution (i.e. the
 process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

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

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

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

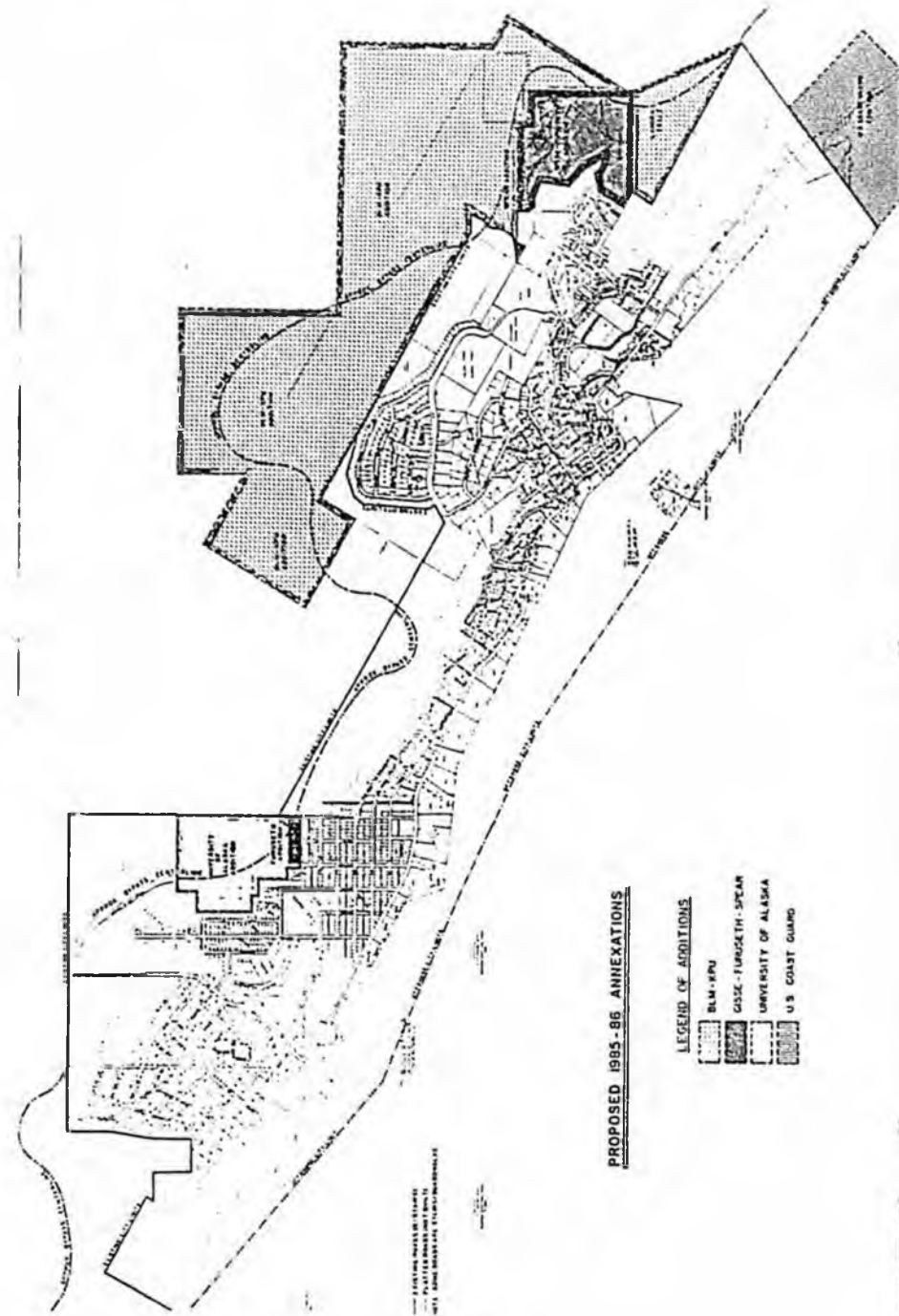
The area referred to as Area #3 is south of the existing
 municipal boundaries and contains approximately 51 acres
 (0.08 square miles). Area #3 contains the recently constructed
 Petro Star refinery, the owners of which have expressed support
 for the proposed annexation, both in writing to the City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



PROPOSED 1985-86 ANNEXATIONS

LEGEND OF ADDITIONS

- BLM-FPU
- GSSE-FURGETH-SPEAR
- UNIVERSITY OF ALASKA
- U.S. COAST GUARD



PROPOSED 1985-86 ANNEXATIONS

LEGEND OF ADDITIONS

- BLM-FPU
- GSSE-FURGETH-SPEAR
- UNIVERSITY OF ALASKA
- U.S. COAST GUARD

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

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

SUMMARY OF PROPOSED ACTION

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

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

FINDINGS OF FACT

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

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

CONCLUSIONS OF LAW

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

STATEMENT OF DECISION

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

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

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

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

thence S-43°58'-E a distance of 441.72 feet to the true point of beginning;
thence S-43°58'-E a distance of 1702.52 feet;
thence S-46°06'-W a distance of 1986.44 feet;
thence N-48°28'-W a distance of 1927.73 feet;
thence N-51°57'-E a distance of 2149.14 feet; to the true point of beginning

The hereinabove described parcel contains 85.59 acres.

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

Fight erupts over borough

Times
1/9/86

by Beth Barrett
Times Writer

The battle over the huge Red Dog mineral deposit and adjacent Arctic lands in northwest Alaska has turned into a high stakes financial battle between two Eskimo groups.

A hearing before the state Local Boundary Commission in Anchorage Wednesday dealt as much with Wall Street matters, the plans of an international corporation, and complicated tax matters as it did with local government concerns.

The fight between North Slope Borough leaders and the advocates of a new Kotzebue-based borough concerns 2.1 million acres, including the Red Dog lead and zinc deposit.

The land is now controlled by the North Slope, but at least 4 percent of the property — and the mineral deposit — is owned by the native NANA Regional Corp.

Advocates of the new Northwest Arctic Borough, led by NANA president-elect Willie Hensley, want the state to detach the mine and surrounding vacant lands from the North Slope Borough.

The proposed Red Dog Mine, to be developed by Cominco Alaska, a subsidiary of Canadian-based Cominco Ltd., would become the heart of the infant borough's tax base, he said.

North Slope Borough leaders said they don't want to give up

See Red Dog, page A-10

Red Dog mine sparks fight

Continued from page A-1

the land, because any change in the borough's tax base would scuttle attempts to improve the borough's fragile bond rating. The borough's rating dropped to triple B in the summer of 1983 when it was revealed that spending practices had resulted in a \$1.2-billion debt.

North Slope Borough finance director Jim Sharpe said the borough's efforts to get an A rating by this summer may hinge on retaining Red Dog within borough borders. Regardless, Sharpe said the borough will pay off its debt by 1996 — about a decade sooner than originally planned.

Hensley said the natives living in the Kotzebue region deserve the same advantages North Slope Borough natives won when their borough was formed in 1972. He said the Northwest Arctic Borough's tax base would be modest — \$250 million when the mine is operating — compared to the North Slope's massive Prudhoe Bay oilfield tax base.

"If anyone has any doubts who is reaching for the tax box, the North Slope Borough has a tax base of \$12.1 billion," Hensley said.

Mark Gardiner, a bond consultant for the state, said the North Slope Borough's bond rating isn't going to be altered by the loss of the mineral deposit. He said the borough has always

relied for credit on oil and gas properties. The borough's large debt is the primary reason for its lower bond rating, he said.

Bob Richards, an Anchorage banker and Republican candidate for governor, testified at the hearing that financial investors are sensitive to changes in boundaries, and that Alaska has a questionable reputation for stability. He said the North Slope Borough has legitimate concerns about the detachment: "It is not crying wolf."

"The question is, to what extent are we able to covet our neighbors' property?" Richards asked.

Hensley and North Slope Mayor George Ahmaogak traded charges on nearly every aspect of the proposed detachment, questioning one another's motives, debating the history of the two native groups, and arguing over the way the North Slope Borough has treated residents living in its remote areas.

Ahmaogak asked, "How can you give away a quarter of a billion dollars to a corporation (NANA, the native for-profit corporation)?" Ahmaogak said he was further upset when NANA representatives asked the North Slope to suspend its planning and regulatory powers for three years while Red Dog was being developed.

Ahmaogak said it appeared advocates for the new borough

just wanted to create a favorable regulatory and tax climate for Red Dog.

Hensley said, "I object to Mayor Ahmaogak's portrayal of this as a greedy reach for profits. I resent the portrayal of this as some corporate scheme of some sort."

The NANA leader said the proposal that North Slope regulations be temporarily suspended was simply a "bargaining tool." Hensley said he knew it was impossible not to regulate the mine.

Citing difficulties with North Slope Borough planning procedures, Hensley said the advocates of a new borough wanted to oversee Red Dog in the early stages and did not want to have to depend on the borough.

Hensley said a petition to form the new borough has already been signed by 700 residents and submitted to the state.

The hearings were continuing today in Noatak and Kotzebue. The commission will go to Point Hope and Barrow Friday. An 11 a.m. hearing in Fairbanks Saturday will conclude the series.

Emil Notti, commissioner of the Department of Community and Regional Affairs, submitted the petition for the detachment because there was no Arctic government to do so. The state is supporting the detachment, and says it encourages local government formation, especially in rural Alaska.

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

LOCAL BOUNDARY COMMISSION

*YVonne
10*

JAN 10 RECD December 23, 1985

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

- Members:
- Robert Eder
Chairman
 - Josephine Anderson
First Judicial District
 - Bert Greist
Second Judicial District
 - Dave Hanson
Third Judicial District
 - Charles Bettisworth
Fourth Judicial District

The Honorable Edna DeVries
State Senator
P.O. Box 321
Palmer, Alaska 99645

Dear Senator DeVries:

As you know, the Alaska Local Boundary Commission has scheduled a series of public hearings on the petition to detach territory from the North Slope Borough. As indicated on the attached notice, the first hearing will begin at 10:00 a.m., January 8, 1985, in Anchorage.

It is the Commission's intention to make the most efficient possible use of the limited time available for the subsequent hearings scheduled in Barrow, Kotzebue, Noatak and Pt. Hope. To this end, I request that to the extent possible, official statements of organizations should be given at the Anchorage hearing. In order to receive testimony from as many individuals as possible, the petitioner (the Department of Community and Regional Affairs), and the respondent (the North Slope Borough) are requested to make their complete statements at the January 8 meeting. At each subsequent hearing, the petitioner and respondent will be requested to restrict their comments to a maximum of fifteen minutes. I would also appreciate it if interested parties would attempt to avoid redundant statements. I have directed staff to plan to provide, in the initial stages of each hearing, a brief summary of testimony received to date in order to ensure continuity in the testimony.

Individuals wishing to comment to the Commission via teleconference should submit those comments, when possible, in their respective region. For example, a person residing in Ambler who wishes to comment upon the proposed detachment by teleconference should do so when the Commission receives teleconference testimony in Kotzebue. Similarly, residents of Wainwright would most appropriately offer their comments via teleconference at the Barrow hearing.

Edna DeVries
December 23, 1985
Page 2

Thank you for your cooperation in this matter.

Sincerely,

Jan Kow
for
Robert Eder

Robert Eder
Chairman

Enclosure: Notice of Public Hearings/Meetings

ALASKA LOCAL BOUNDARY COMMISSION
NOTICE OF PUBLIC HEARINGS/MEETINGS

JAN 10 RECD

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Notice is hereby given that the Alaska Local Boundary Commission will hold a series of public hearings and meetings to consider and act upon the petition by the Alaska Department of Community and Regional Affairs for the detachment of approximately 3,298 square miles from the North Slope Borough.

The hearings will be subject to the procedures outlined in 19 AAC 10.420. The Chairman of the Local Boundary Commission may impose reasonable limitations of the time allotted to each speaker and may curtail repetitive and irrelevant statements.

The hearings are scheduled to occur as follows:

- JANUARY 8, 1986 - 10:00 A.M. at the following location:
University Plaza Building
949 East 36th Avenue, Suite 404
Anchorage, Alaska
- JANUARY 9, 1986 - 10:00 A.M. at the following location:
Noatak School
- JANUARY 9, 1986 - 7:00 P.M. at the following location:
Kotzebue Senior Citizens Center

This hearing will also be conducted using telephonic communications (conference telephones) at the following locations:

- Kivalina - McQueen School
 - Ambler - City Office Building
 - Shungnak - Shungnak School
 - Noorvik - Noorvik High School
 - Selawik - IRA Conference Room
 - Buckland - Buckland School
 - Deering - Deering School
 - Kiana - Kiana Elementary School
- JANUARY 10, 1986 - 10:00 A.M. at the following location:
Point Hope High School Library
 - JANUARY 10, 1986 - 7:00 P.M. at the following location:
Barrow High School Auditorium

This hearing will also be conducted using telephonic communications (conference telephones) at the following locations:

- Anaktuvuk Pass - Anaktuvuk Pass School
- Atgasuk - Atgasuk School
- Nuiqsut - Nuiqsut School
- Point Lay - Cully School
- Wainwright - Alak High School
- Kaktovik - Kaktovik School

Following the hearings, the Commission will conduct a decisional session in Fairbanks as follows:

- JANUARY 11, 1986 - 11:00 A.M. at the following location:
Noel Wien Library Auditorium
1215 Cowles Street
Fairbanks, Alaska

The Commission may, in its discretion, conduct additional meetings concerning this matter. Notice of any additional meetings will be provided to the greatest extent practicable. Individuals wishing to receive notice of such meetings should write or telephone the following individual (collect calls will be accepted):

Linda Sandison
Municipal and Regional Assistance
Department of Community and Regional Affairs
949 East 36th Avenue
Anchorage, Alaska 99508
Telephone: (907) 561-8586

If, for any reason, (e.g. transportation delays, telephonic communication equipment malfunction, inadequate meeting room capacity, etc.), the Local Boundary Commission is unable to conduct a hearing/meeting at the time and/or place specified in this notice, the hearing/meeting will be delayed until later that day or will be rescheduled to a new date, as early as is practicable. Notice of such delay or rescheduling will be formally provided at the time and location of the hearing/meeting as originally scheduled.

The Commission may, in its discretion, consider matters other than those referenced above.

For further information or a copy of the meeting agenda, contact Gene Kane, Staff Assistant to the Local Boundary Commission, at the telephone number or address listed above (collect calls will be accepted).

JAN 10 RECD

Y. Kanne

REPORT TO THE LOCAL BOUNDARY COMMISSION
ON THE PETITION TO DETACH CERTAIN LANDS
FROM THE NORTH SLOPE BOROUGH

Gordon S. Harrison
Office of Management and Budget
State of Alaska

January 3, 1986

Report To The Local Boundary Commission
On The Petition To Detach Certain Lands
From The North Slope Borough

I. Introduction

In a memorandum dated November 20, 1985 (Attachment 1), the Commissioner of the Department of Community and Regional Affairs (DCRA) delegated to me the responsibility of preparing a report to the Local Boundary Commission under 19 AAC 10.570 on the petition before the Commission regarding the detachment of certain lands from the North Slope Borough. This document is my report on the matter, in accordance with that delegated responsibility.

II. Summary and Background of Petition

The petition for detachment submitted to the Local Boundary Commission by DCRA seeks to detach approximately 3,298 square miles of territory from the North Slope Borough. The proposed detachment area includes the Red Dog Mine development site, several other known mineral deposit areas, and additional

lands. The petition asks that any decision in favor of detachment take effect only upon the incorporation of a borough within the Northwest Alaska Native Association (NANA) region, which borough shall include the proposed detachment territory.

The Red Dog Mine development site is the most noteworthy feature of the territory proposed for detachment. The mine site is located on land principally owned by NANA Regional Corporation, Inc., and is slated for joint development by NANA and Cominco Alaska, Inc. The mine site occupies approximately 1,336 acres (2.1 square miles) of a total 2.1 million acres (3,298 square miles) proposed for detachment. If developed, the mine is expected to create approximately three hundred and fifty to four hundred jobs and have a lifespan of approximately fifty years.

The territory proposed for detachment, particularly the Red Dog Mine development site, also bears directly on a separate proposal which may soon come before the Local Boundary Commission. This proposal is for the creation of a borough for the NANA region, to be called the Northwest Arctic Borough. NANA region representatives, who view the proposed detachment as essential for the proposed borough's viability, currently are preparing an incorporation petition for the proposed borough.

During the past three years, NANA region representatives and North Slope Borough representatives met on a number of occasions to discuss the possibility of detaching the Red Dog Mine site and additional lands from the North Slope Borough. Also, several public workshops and hearings on the matter were held in the Kotzebue and Barrow areas. (Details on the discussions and hearings involved can be found in the detachment petition, briefs, and attachments.) These discussions and meetings were not sufficient to resolve the question of detachment, however. On October 1, 1985, North Slope Borough residents voted against a proposition for detachment in a borough-wide advisory (non-binding) referendum. On November 22, 1985, DCRA submitted its petition for detachment to the Local Boundary Commission.

Ordinarily, DCRA reviews all petitions submitted to the Local Boundary Commission. Because DCRA is the Petitioner in the present case, however, the Office of Management and Budget, Division of Strategic Planning, was designated to serve as the reviewing agency.

Review requirements for Local Boundary Commission petitions encompass two levels of review. One is a compliance review (required under 19 AAC 10.520), to assure that the petition and accompanying brief submitted to the Commission are in the proper form and contain the factual information required by existing regulations (19 AAC 10.450-530). I fulfilled this

review requirement in my November 22, 1985, memorandum to the Petitioner, which held that the DCRA petition substantially complied with established form and content requirements (Attachment 2).

The second level of mandatory review is a report (required under 19 AAC 10.570) to the Local Boundary Commission on the boundary change proposed by the petition. The report must summarize the issues raised in the petition and briefs, comment on issues relevant to the proposed action, and contain recommendations to the Commission. The present report fulfills this requirement.

III. Discussion of Petition

I have carefully reviewed the DCRA petition, the brief supporting the petition and attachments thereto, the briefs and attachments submitted by the NANA Regional Corporation and the North Slope Borough, and the reply of the Petitioner to the opposing brief by the North Slope Borough. Further, I have independently researched certain issues raised in the petition, such as the designation of the southern boundary of the North Slope Borough and the potential public financial impact of detachment on the North Slope Borough.

There are two aspects to the detachment proposal: one is substantive, and the other is procedural. Careful consideration must be given to each aspect, as each conditions the recommendation made in this report.

A. Substantive Aspects

From a substantive point of view, I believe that a persuasive case exists for the proposed detachment. The case is based on considerations of equity, and is discussed below.

The North Slope Borough has access to public wealth that, when viewed in per capita terms, is staggering. The tax base of the North Slope Borough currently exceeds \$12 billion, for example, while the number of its permanent residents is less than 8,000. The magnitude of such wealth is indicated by the fact that the Borough's 1984 per capita assessed value exceeded the statewide average per capita assessed value by a factor of 12, and the per capita assessed value of the Anchorage Municipality by a factor of 18. Further, it is expected that the North Slope Borough tax base will continue to increase at least through the end of this decade, and may exceed \$16 billion by the early 1990's.

The North Slope Borough's access to the full value of the real and personal property within its jurisdiction, for purposes of raising revenue for Borough operations, is limited by Alaska law (AS 39.53.050). As a result, the Borough currently may access approximately 20 percent of its \$12 billion tax base to raise revenue for its operating expenses. At present, the Borough is taxing well below this legal limit, presumably to keep its millage rate within bounds considered tolerable by residential property owners./1

For purposes of servicing general obligation debt, however, the North Slope Borough is not fettered in its access to the full value of the tax base within its jurisdiction. As a consequence, the North Slope Borough has incurred over \$1.2 billion in general obligation debt. This amounts to \$400 million more than the current outstanding general obligation debt of the State of Alaska./2 In 1984, North Slope Borough per capita general obligation debt was more than 17 times greater than the average per capita general obligation debt of all Alaska municipalities and the State of Alaska combined (including the North Slope Borough), and almost 67 times greater than the per capita general obligation debt of the Municipality of Anchorage (\$97,373 vs. \$1,455)./3

Altogether, North Slope Borough bond issues have fueled a capital improvement program so large that it has attracted

national media attention. Projects undertaken through this program have included education and service center facilities; public roads; watercourse and flood control facilities; airport and airport terminal facilities; urban development projects; light, power and heating systems; public safety facilities; sanitation facilities; advanced communications systems; health facilities; library facilities; construction equipment acquisition; and other miscellaneous capital improvement projects./4

Further, overall Borough expenditures for capital projects and operating programs (expenditures which are supported by property and sales tax revenues, bond proceeds, State and federal revenue sharing and grant receipts, plus interest income from the Borough's cash balances) have generated substantial employment and personal income for permanent residents of the North Slope Borough./5

By contrast, the neighboring NANA region knows nothing of such wealth. It has no regional government; no industrial or commercial tax base; no bonded indebtedness; and no capital improvement program except that which can be financed through uncertain competition in the State's annual budget process.

Petitioner thus argues persuasively that, without the taxable property of the Red Dog Mine development, formation of a local borough government in the NANA region is not feasible. The

meager tax base that currently exists in the region comprises little beyond the homes and personal equipment of many low-income families; and even much of this limited potential tax base would disappear if the new NANA-area borough government were to allow a personal exemption of the first ten thousand dollars of assessed value, as is currently allowed by the North Slope Borough.

As a matter of broad public policy, consequently, a redistribution of public wealth in the present circumstances is certainly justifiable.

The mal-distribution of public wealth from the North Slope is well known, and has been raised as a public issue in the past. It was first addressed by the Alaska Legislature early in the 1970's, when Governor Egan introduced a comprehensive legislative proposal for redistributing public wealth among the unorganized rural areas of the State. Writing about the overall problem at the time, Assistant Attorney General Richard W. Garnett, III, made these observations:

"Most of the valuable property that will appear in the unorganized borough will be located in accordance with the distribution of natural resources. Because this distribution bears little relation to the pattern of local jurisdictions and fiscal needs, there will be increasing variation in wealth and services among regions unless an equitable statewide distribution of revenue from Alaska resources can be achieved."/6

In arguing for a comprehensive scheme of public wealth redistribution among the rural areas of the State, Garnett remarked:

"The general welfare in Alaska will be advanced if local government organization precedes rather than follows economic development. New industrial development will create stresses manageable only by application of governmental powers. Planning and zoning will be particularly important in reconciling industrial development with subsistence living, and taxing power will be needed to insure local benefit from development activity. Municipalities which form after major economic interests have become established may be too late to influence significantly the activities of those interests. On the other hand, it may be futile to extol the desirability for self-determination to people who presently lack the economic resources necessary to the effective exercise of local government power."/7

Although a comprehensive redistribution plan along the lines of Governor Egan's proposal was not adopted, something of a redistribution mechanism in the form of the statewide oil and gas property tax was subsequently enacted (AS 43.56).

It is noteworthy that Congress, too, recognized the problem of the unequal distribution of natural resource wealth in Alaska. Section 7(i) of the Alaska Native Claims Settlement Act, for example, requires that each of the twelve regional corporations in Alaska must redistribute seventy percent of the revenues it derives from the development of natural resources on its lands. Congress was particularly mindful of Alaska's North Slope petroleum resources when it included this provision.

In addition to the glaring mal-distribution of public wealth in Alaska's Arctic regions, which is the distinguishing feature of this case, other unique and extraordinary circumstances exist which support the case for the proposed detachment.

First, residents of the NANA area are now seeking the means of local government control to help cope with a major industrial development that may profoundly affect the lifestyle of people in an entire region. In this respect, the rationale for borough government in the NANA region today is the same one used by proponents of borough government on the Arctic Slope in the early 1970's. Viewed in this context, the case made by Petitioner for coordinated management and governmental control over the entire Red Dog Mine project (port, road and mine site) is logical, reasonable, and convincing.

Second, the State of Alaska has today, as it did at the time of North Slope Borough incorporation, a strong interest in promoting local self-government in rural Alaska. Further, it has a compelling constitutional mandate to do so, as contained in Article X of the Alaska Constitution.

Third, is the fact that the territory proposed for detachment is located entirely within the boundaries of the NANA regional corporation. Regional corporation boundaries are widely recognized in Alaska as authoritative geographical delineations

of cohesive socio-cultural subregions of the State's rural areas./8 A boundary revision along the lines of the detachment proposal would therefore complement existing statutory standards for borough incorporation, not offend them./9

In contrast to the broad public benefits of borough formation in the NANA region, which are achievable through the acquisition of an industrial tax base, the harm to the North Slope Borough from detachment of the mineralized lands in question seems to be inconsequential. While the fiscal impact of detachment on the North Slope Borough is measurable, it would be relatively insignificant when viewed in the context of the per capita revenues the Borough now receives and may receive under existing law./10

Finally, it must be said that imposing a boundary change on a local government against its express wishes is an unusual act. The Local Boundary Commission must carefully consider the significance of any precedent, as well as the appearance of any precedent, that might be set by such an imposition. My careful reading of the material submitted in this case, however, leads me to the conclusion that the circumstances justifying the proposed detachment are so extraordinary and unique that they do not constitute an ominous precedent for either the North Slope Borough or other local governments in the State.

B. Procedural Aspects

Notwithstanding the substantive aspects of the detachment proposal, and the elaboration of them that is possible, the procedural aspects of the proposal must also be addressed. Here, a key question of legal interpretation and judgement is immediately confronted that is outside my professional competence.

The issue is this: How narrowly and literally should the regulatory standards for detachment at 19 AAC 10.230-250 (Attachment 3) be applied in this case?/11

I can offer only a layman's opinion on the matter, and so recommend that the Commission hear directly from the Office of the Attorney General for advice on the best interpretation of the law. It was my hope that written advice on this question from the Attorney General would be available at the time I prepared this report. Such advice has not been forthcoming, however, in response to the request I submitted on December 6, 1985 (Attachment 4).

My own view is that the existing regulatory standards for detachment (19 AAC 10.230-250) thwart the very constitutional purpose of the Local Boundary Commission. That purpose is to decide boundary disputes in situations precisely like the one

at hand; i.e., where local interests cannot agree on a mutually satisfactory resolution./12 It is therefore unreasonable that the Commission should be bound by regulations that effectively give any party to a dispute a veto power over a boundary decision by the Commission, thereby frustrating exercise of the Commission's constitutional responsibility. Nevertheless, that is the practical effect of the "best interest" criterion established at 19 AAC 10.230(a):

"Territory which is part of a borough may be detached from that borough if, in the determination of the Commission, the detachment would be in the best interests of the State, the territory to be detached, and the borough affected by the detachment." (Emphasis added.)

Furthermore, the considerations required under the Commission's established detachment regulations clearly contemplate circumstances very much unlike the ones encountered in the present proceeding. The detachment regulations envisage a permanent residential population (in a territory proposed for detachment) that would require the normal range of services and representation expected in a borough that is responsibly fulfilling its governmental obligations. Because an entirely different situation exists in the present proceeding (i.e., an industrial enclave rather than a permanent residential community), I regard these regulatory considerations as irrelevant and unsuitable to the task before the Commission. Application of them and close scrutiny of arguments pro and con are a

distraction for the Commission, and hinder its understanding and evaluation of the broad policy issues that are involved.

For these reasons, I believe the Commission is fully justified in taking a view of these regulatory provisions that allows it to step up to its constitutional duties and to weigh the interests of the parties concerned. If this is done, I believe the record shows that the combined interests of the State of Alaska and the residents of the NANA region far outweigh in significance and import the interest of the North Slope Borough.

If, however, the Commission interprets the law as requiring the Commission to apply the detachment regulations literally, then my assessment of the matter is that the DCRA petition fails, and should be rejected. The basis for this assessment is that, if the detachment regulations are applied literally, the arguments of the North Slope Borough (that the petition does not comport with the standards in 19 AAC 10.230-250) are not successfully rebutted by the Petitioner. This conclusion is elaborated below, in terms of the applicable regulatory standards for detachment.

Best Interest Determination While the regulations require the Commission to make its own determination of the best interest of the North Slope Borough (19 AAC 10.230[a]), common sense suggests that the voters and elected officials of the Borough

are a very good judge of their own interests. A very compelling and well-documented case would have to be presented to the Commission to support an administrative finding of fact that the DCRA petition is in the best interest of the North Slope Borough. While arguments to this effect have been advanced by the Petitioner, my own conclusion is that Petitioner's arguments do not suffice to overcome the North Slope Borough's assessment of its own best interests.

Social, Cultural and Economic Characteristics Petitioner writes that he "does not claim that the social, cultural and economic characteristics of the population of the territory proposed for detachment are substantially different from or in conflict with those of the remainder of the population located in the borough...Rather, the Petitioner claims that the area of the NANA region is distinctive and distinguished from the North Slope Region."/13 (Emphasis in original.) I fail to see how a plain reading of the regulatory language allows the distinctive nature of the area to be of any relevance. The regulatory test (19 AAC 10.230[a][1]) is simply whether a substantial difference or conflict exists, or not.

Geographic Location Here the question is whether the provision of services by the North Slope Borough to the area proposed for detachment is impossible or impractical (19 AAC 10.230[a][2]). The question is not, as Petitioner argues, whether the provision

of services by a different political subdivision of the State might be more practical. Petitioner does argue convincingly that it would be more efficient to provide services from Kotzebue than from Barrow, but fails, in my judgement, to establish that the geographic location or configuration of the territory proposed for detachment would make the provision of services by the North Slope Borough so substantially difficult as to be impossible or impractical.

Transportation Again, Petitioner argues the comparative efficiency of providing responsive government from Kotzebue, and again misses the point of the regulation (19 AAC 10.230[a][3]). The regulatory test here is whether the lack of transportation facilities precludes responsive government in the area proposed for detachment, not whether government from a different location would be more responsive. In short, Petitioner fails to provide evidence that a lack of transportation facilities in the area proposed for detachment would preclude effective and responsive governance by the North Slope Borough.

In sum, whether or not the Brief of the North Slope Borough contains, as the Petitioner urges, allegations and arguments that are irrelevant, specious, incomplete, out of context, unpersuasive, and misleading, the case it makes for the failure of the petition to pass the test of a literal reading of 19 AAC 10.230-250 survives.

IV. Recommendation

Because a decision by the Local Boundary Commission must withstand judicial scrutiny, I recommend that the Commission seek the advice of the Office of Attorney General on the latitude it has in interpreting and applying the standards for detachment at 19 AAC 10.230-250. My layman's view is that the constitutional mandate of the Commission is inhibited by a literal application of these standards; that the standards are unsuited to resolving the issues raised by the petition; and that the Commission is justified in broadly construing its legal decision-making authority. On this basis, I recommend that the Commission approve the detachment petition and forward it to the Legislature for review.

However, what seems right and reasonable under the present circumstances may not also be technically legal. If the Commission feels that its proper course of action is to render a decision on this petition that is based on a close reading and literal application of the existing detachment regulations, I do not see how the petition can be approved. The petition fails the "best interest" standard as applied to the North Slope Borough, and, significantly (but perhaps not fatally in the absence of the failure of the best interest standard), it does not satisfy any of the three explicit considerations found in the detachment regulations.

FOOTNOTES

- /1 If the North Slope Borough taxed at the full legal limit, it could raise approximately \$70 million in FY 1986 for its operating budget. However, the Borough expects to raise about \$23 million in FY 1986 with a mill rate equivalent of 1.78 mills. North Slope Borough Budget Document, FY 1985-86, p. 22.
- /2 Principal outstanding on June 30, 1985, on State of Alaska general obligation bonds was \$816.1 million. Alaska State Bond Committee, Alaska: Credit Trends in a Maturing Economy, p. 40.
- /3 Alaska Department of Community and Regional Affairs, Alaska Taxable 1984, pp. 9-10.
- /4 See North Slope Borough Planning Department, North Slope Borough Capital Improvement Program FY 1986-FY 1991.
- /5 See Alaska Consultants, Inc., Barrow Arch Socioeconomic and Sociocultural Description, Social and Economic Studies Program Technical Report No. 101 (Anchorage, Minerals Management Service, Alaska OCS Office), January 1984.
- /6 Richard W. Garnett, III, "Equalization of Local Government Revenues in Alaska," ISER Occasional Papers No. 9 (Fairbanks, University of Alaska), January 1973, p. 9.
- /7 Ibid., pp. 11-12.
- /8 See, for example, AS 14.08.031, and AS 46.40.120.
- /9 See AS 39.18.030.
- /10 In FY 1986 the North Slope Borough expects to receive approximately \$328,700,000 as general fund revenue, or about \$41,000 for each permanent resident of the Borough. In contrast, the State of Alaska expects to receive about \$6,000 per capita. Alaska has the highest per capita general fund receipts among all the fifty states (State Policy Research, Inc., Arlington, Virginia).

The North Slope Borough estimates that the annual loss of revenue to the Borough at the time the Red Dog Mine is fully developed (assuming an assessed value of \$250 million), on the basis of the present levy of 18.37 mills, would be \$4,592,500. Actually, under current law and State policy, the same millage rate would yield something slightly more than that amount, because the Borough's

population would increase by about 200 people (assuming 400 total employment at the Red Dog Mine, and a shift rotation of 1:1). In any case, the potential revenue loss does not constitute a significant fiscal impact for the North Slope Borough under the circumstances.

Testimony in the record makes it clear that, in itself, the proposed detachment would have no impact on the credit worthiness of the North Slope Borough. Rather, such an impact would result only if a future detachment reached the oil and gas property at Prudhoe Bay. It seems clear from the unique circumstances of this case, and from the clearly demonstrated aversion of the Commission in previous cases to threatening the fiscal integrity of an established borough (e.g., the Lake Louise detachment petition), that this detachment is not a forerunner of other detachments that could cause alarm among bond rating agencies and underwriters.

A potential fiscal impact of any major development is the cost of providing public services to new residential population attracted directly and indirectly by the activity. In this case, no socioeconomic impacts to Barrow or other North Slope Borough communities are expected to occur, so the Borough can not claim fiscal impact from this source.

- /11 This issue is addressed in the North Slope Borough's opposition Brief at pp. 2-4.
- /12 See, for example, Fairview Public Utility District No. 1 v. City of Anchorage (368 p. 2d. 540).
- /13 Reply to North Slope Borough Brief in Opposition to Petition for Detachment, pp. 9-10.

ATTACHMENTS

MEMORANDUM

State of Alaska

TO: The Honorable Hal Brown
Attorney General
Department of Law

DATE: December 6, 1985

FILE NO: 86F-391

TELEPHONE NO 465-3568

FROM: Gordon S. Harrison *gsh*
Associate Director
Office of Management and Budget
Division of Strategic Planning

SUBJECT: Role of 19AAC 10.230(a)
in North Slope Borough
Detachment Petition
Proceedings

I would like your views on a matter pertaining to the petition before the Local Boundary Commission for detachment of certain territory from the North Slope Borough. As you know, in this case the Commissioner of the Department of Community and Regional Affairs is the petitioner, and I am performing certain staff functions to the Local Boundary Commission. The question I am bringing to you in this memorandum is a legal one that will surely be asked by the Commission, and that I am unqualified to answer. In order to expedite the decision-making process, I would like the Commission to have, as early as possible, an understanding of all the options it has in this matter.

My question is whether 19AAC 10.230(a) should stand in the way of a decision to approve the detachment, if the Commission were to decide that as a matter of general public policy the detachment is desirable. This regulation reads, in part:

Territory which is part of a borough may be detached from that borough if in the determination of the Commission, the detachment would be in the best interests of the State, the territory to be detached, and the borough affected by the detachment.

Therefore, in order for the Commission to approve the detachment, it would have to decide (1) that detachment is in the best interest of the North Slope Borough (despite Borough opposition), or (2) to ignore, nullify, or otherwise circumvent the regulation on the basis of a judgement that other interests have precedence over the interests of the Borough.

My own understanding is that the intent of the framers of the Constitution of the State of Alaska in creating the Local Boundary Commission was to empower a body to make boundary determinations, if not from Olympian heights, at least from the perspective of the broad public interest as well as local interests. Does the regulation at 19AAC 10.230(a) frustrate this constitutional purpose? Also, the existing regulation arguably does not contemplate the situation at hand, but was

Hal Brown

- 2 -

December 6, 1985

written with different circumstances and different problems in mind. It seems that the regulation may establish a deliberately difficult standard for detachment in order to preserve the integrity of boroughs from the efforts of fringe communities (or absentee landowners) to escape borough taxation and regulation, as in the recent case of Lake Louise.

I expect that the Local Boundary Commission will want to know your views on these matters in order to determine what options it has in the detachment petition, and I am therefore presenting this request to you at the present time.

GSH/dmc

Register 81, April 1982

COMMUNITY AND REGIONAL AFFAIRS

19 AAC 10.210
19 AAC 10.230

Attachment 3

discretion, approve an equitable agreement between the municipalities affected but will independently review the proposed agreement.

(c) Territory which is part of an organized borough may not be annexed to another borough unless the commission determines the annexation to be in the best interests of the annexing borough, the borough from which the annexed territory is taken, and the annexed territory.

(d) Separate or additional proceedings are not required for detachment of territory from an incorporated city or borough which becomes annexed to another borough. The detachment is affected by, and at the same time as, the annexation itself. (Eff. 2/21/82, Reg. 81)

Authority: Art. X, Sec. 12
Alaska Const.
AS 44.47.567

Editor's Note: 19 AAC 10.210 is based on former versions of 19 AAC 05.130 and 19 AAC 15.040.

19 AAC 10.220. STATUTORY STANDARDS.
(a) In addition to the requirements of 19 AAC 10.190 - 19 AAC 10.220, the commission will approve and recommend to the legislature the annexation of territory to an organized borough only if it finds that the resulting boundaries of the expanded borough conform substantially to the standards set forth in AS 29.18.030.

(b) In approving organized borough boundary changes, the commission, with the assistance of the department, will, if necessary, determine proposed assembly reapportionment plans applicable to the organized boroughs whose boundaries are to be affected by the change. (Eff. 2/21/82, Reg. 81)

Authority: Art. X, Sec. 12
Alaska Const.
AS 44.47.567

Editor's Note: 19 AAC 10.220 is based on a former version of 19 AAC 05.140.

**ARTICLE 8.
STANDARDS FOR DETACHMENT FROM
ORGANIZED BOROUGHS**

Section

- 225. Applicability
- 230. Detachable territory
- 240. Application of standards
- 250. Distribution of assets and liabilities

19 AAC 10.225. APPLICABILITY. The provisions of 19 AAC 10.230 - 19 AAC 10.250 apply to a proposal for detachment by local action (19 AAC 10.630 - 19 AAC 10.730) or by legislative review (19 AAC 10.455 - 19 AAC 10.620). (Eff. 2/21/82, Reg. 81)

Authority: Art. X, Sec. 12
Alaska Const.
AS 44.47.567

19 AAC 10.230. DETACHABLE TERRITORY.
(a) Territory which is a part of a borough may be detached from that borough if, in the determination of the commission, the detachment would be in the best interests of the state, the territory to be detached, and the borough affected by the detachment. In determining whether to approve a detachment, the commission will consider, but is not limited to, the following factors:

(1) whether the social, cultural and economic characteristics of the population of the territory are substantially different or in conflict with those of the remainder of the population located in the borough;

(2) whether the geographic location or configuration of the territory precludes the provision of borough services provided other areas of the borough or make the provision of borough services impractical;

(3) whether the lack of transportation facilities precludes the communication and exchange necessary for responsive and integrated local government.

(b) The commission will, in its discretion, conduct public hearings or investigations after the effective date of an annexation to determine whether the extension of services is progressing in a reasonable manner. If the

commission determines that the extension of services is not progressing in a reasonable manner, it will, in its discretion, begin detachment proceedings. (Eff. 2/21/82, Reg. 81)

Authority: Art. X, Sec. 12
Alaska Const.
AS 44.47.567

19 AAC 10.240. APPLICATION OF STANDARDS. (a) The commission will not approve a detachment unless the petitioners demonstrate to the satisfaction of the commission that the service requirements of the territory will be met following the detachment.

(b) If, in fulfilling the requirement of (a) of this section, the petitioners have proposed the incorporation of a new municipality, the commission will, in its discretion, condition approval of the detachment upon voter approval of the incorporation proposal. (Eff. 2/21/82, Reg. 81)

Authority: Art. X, Sec. 12
Alaska Const.
AS 44.47.567

19 AAC 10.250. DISTRIBUTION OF ASSETS AND LIABILITIES. (a) If territory sought to be detached consists entirely of a city having authority and responsibility for the powers formerly provided by the borough from which detachment is sought, the commission shall determine the manner in which the assets and liabilities of the borough shall be distributed between it and the detaching city.

(b) If territory sought to be detached consists entirely of territory not within a city or consists of a city not having authority to provide services currently provided by the borough from which detachment is sought, the commission shall determine the manner in which the assets and liabilities of the municipality from which detachment is sought shall be distributed between it and the state. (Eff. 2/21/82, Reg. 81)

Authority: Art. X, Sec. 12
Alaska Const.
AS 44.47.567

**ARTICLE 9.
STANDARDS FOR DISSOLUTION
OF ORGANIZED BOROUGHES**

Section

- 260. Dissolution
- 270. Application of standards
- 280. Dissolution effected by annexation

19 AAC 10.260. DISSOLUTION. (a) A borough may dissolve if it has no indebtedness, bonded or otherwise, or has proposed a method of repayment which will protect the interest of its creditors and if the following standards are met:

(1) the borough has ceased to exercise all of the mandatory powers of a borough;

(2) the borough has failed to conduct two or more consecutive regular elections in the manner provided by law; and

(3) the borough no longer meets the standards for incorporation as provided by law and regulation.

(b) The commission will, in its discretion, conduct public hearings or investigations after the effective date of an incorporation to determine whether the provision of the municipal services is proceeding in a manner consistent with that outlined in the petition for incorporation. If the commission determines that the provision of services is not proceeding in a manner consistent with that outlined in the petition, the commission will, in its discretion, begin dissolution proceedings. (Eff. 2/21/82, Reg. 81)

Authority: Art. X, Sec. 12
Alaska Const.
AS 44.47.567

19 AAC 10.270. APPLICATION OF STANDARDS. (a) If the commission determines that it will recommend to the legislature that a borough be dissolved, the borough may not make an expenditure without first receiving the written approval of the commissioner.

(b) The assets of the borough being dissolved become the assets of the state.

(c) If the liabilities of a borough being dissolved

Attachment 1

MEMORANDUM

State of Alaska
Community and Regional Affairs

TO: Gordon Harrison
Office of Management
and Budget

DATE: November 20, 1985

FILE NO: EM/IR/sj/00430

TELEPHONE NO 465-4700

FROM: *Emil Notti*
Emil Notti
Commissioner

SUBJECT: Delegation

The Department of Community and Regional Affairs (DCRA) intends to file a petition with the Local Boundary Commission (LBC) on November 22, 1985, which proposes the detachment of certain land from the North Slope Borough (NSB). As proposed, the petition would only take effect upon the incorporation of a NANA Borough which includes all of the detached land.

As you know, DCRA typically provides staff support to the LBC. In particular, under 19 AAC 10.570, DCRA staff prepares a report which both summarizes the issues raised in the petition and which states a recommendation.

Because of DCRA's involvement in the presentation of the detachment petition, concerns have been raised regarding DCRA's ability to objectively perform our typical staff functions. While I believe DCRA could properly and fairly discharge the staff functions envisioned by the regulations, I nonetheless request that you perform these functions on behalf of DCRA. Accordingly, I delegate to you the full authority to review the petition for form and content and to subsequently prepare a report for submission to the LBC. Your exercise of this delegated authority is entirely committed to your discretion, and is not, in this regard, subject to my review.

I certainly appreciate your willingness to assist in this matter.

OFFICE OF
MANAGEMENT & BUDGET

NOV 21 1985.

STRATEGIC PLANNING

MEMORANDUM


State of Alaska

TO: Marty Rutherford, Director
Municipal & Regional Assistance Div.
Department of Community &
Regional Affairs

DATE: November 22, 1985

FILE NO:

TELEPHONE NO: 561-8586

FROM: Gordon Harrison 
Associate Director
Office of Management and Budget
Division of Strategic Planning
Office of the Governor

SUBJECT: Petition for
Detachment of
Territory from the
North Slope Borough

I have reviewed the petition to the Local Boundary Commission prepared by you and your staff pursuant to AS 29.69.010(a) for detaching approximately 3,298 square miles from the North Slope Borough. Further, I have reviewed your supporting brief for the proposed action and the notice of petition that you will have published to notify interested parties. It is my understanding that you will by the close of business today, serve by certified mail the petition and brief, together with accompanying exhibits, upon the North Slope Borough. I have evidence before me that you have caused to be published forthwith in the Anchorage Daily News and the Tundra Times the notice of petition. Further, I have evidence that you intend to mail this day copies of the petition, notice of petition, and supporting brief (without attachments) to a substantial list of individuals and organizations who have expressed an interest in the proposed detachment or who may be expected to have an interest in the matter.

In my opinion, the petition conforms substantially to the regulations governing submissions of this type to the Local Boundary Commission under AS 29.68.010(a), namely 19 AAC 10.450 - 10.530 (with the exceptions agreed to by the Local Boundary Commission at its meeting November 20, 1985). I perceive no significant procedural deficiencies that should prevent the petition from being presented to the Local Boundary Commission for its consideration.

RECEIVED

JAN 3 1986

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

Dept. of Comm. & Reg. Affairs
Div. of Municipal & Reg. Asst.

COMMENTS OF NANA REGIONAL CORPORATION IN REPLY TO BRIEF IN
OPPOSITION TO PETITION FOR DETACHMENT

I. Introduction.

NANA Regional Corporation ("NANA") submits the following reply to the North Slope Borough's Brief in Opposition to Petition for Detachment ("Brief in Opposition to Petition"). The Brief in Opposition seriously distorts the standards under which the Commission must review the petition - advocating a rigid interpretation of those standards that cannot be reconciled with the Commission's constitutional mandate. The Brief in Opposition to Petition also misrepresents important facts concerning the history of the North Slope Borough's southwest boundary, and the subsistence use of the Detachment Area. Finally, the Brief in Opposition to Petition fails to present any persuasive reason why the Commission should delay in approving the petition.

II. The Commission Should Apply the Detachment Standards Flexibly and in Accordance With its Constitutional Mandate.

A. The Commission Must Apply its Standards Flexibly to Meet a Wide Range of Regional Conditions.

Under United States Smelting, Refining and Mining Co. v. Local Boundary Commission, 489 P.2d (Ak. 1971), and Port of Valdez Company, Inc. v. City of Valdez, 522 P.2d 1147 (Ak. 1974), the Local Boundary Commission must adopt standards for boundary changes before it has the power to recommend boundary changes to the legislature. The Commission has complied with this requirement here by adopting the standards for detachment from organized boroughs appearing at 19 AAC 10.225 through 19 AAC 10.250.

While the Commission must adopt standards for local boundary changes, United States Smelting and Port Valdez Co. do not state what those standards must consist of or how they should be applied. On the contrary, the court in United States Smelting carefully excluded itself from reviewing standards adopted by the Commission, or decisions to approve boundary changes under those standards:

Without doubt there are questions of public policy to be determined in annexation proceedings which are beyond the province of the court. Examples are the desirability of annexation, as expressed in published stan-

dards. Judicial techniques are not well adapted to resolving these questions. In that sense, these may be described as "political questions," beyond the compass of judicial review. But other annexation issues, such as whether statutory notice requirements were followed, are readily decided by traditional judicial techniques.

489 P.2d 140, 143 (emphasis added). United States Smelting and Port Valdez Co. do not constrain the Commission to apply the standards in 19 AAC 10.225 through 19 AAC 10.250 in the rigid and mechanical fashion advocated by the North Slope Borough.

The correct approach to applying the Commission's standards is indicated in Mobil Oil Corp. v. Local Boundary Commission, 518 P.2d 92 (Ak. 1974). In contrast to the present detachment proceeding, the Commission's acceptance of the North Slope Borough incorporation petition in Mobil Oil was not subject to review by the legislature, but was explicitly subject to judicial review under former AS 7.10.110, which provided in relevant part:

Any person aggrieved by any determination of the commission may appeal to the Superior Court in the manner and within the scope of review prescribed by Sections 24 and 25, Ch. 2 of the Administrative Procedure Act (AS 44.62).

518 P.2d 92, n.5 at 96. Thus, the Commission's action in Mobil Oil was subject to a more stringent standard of review than that which would apply to the Commission's action on this detachment.

The court described the standard of review that it applied in Mobil Oil as follows:

Recent cases have established that where administrative action involves formulation of fundamental policy, the appropriate standard on review is whether the agency action has a reasonable basis. [citations]. A determination whether an area is cohesive and prosperous enough for local self government involves broad judgments of political and social policy. The standards for incorporation set out in AS 07.10.030 were intended to be flexibly applied to a wide range of regional conditions. This is evident from such terms as "large enough", "stable enough", "conform generally", "all areas

necessary and proper", "necessary and desirable", "adequate level" and the like. The borough concept was incorporated into our constitution in the belief that one unit of local government could be successfully adapted to both urban and sparsely populated areas of Alaska, and the Local Boundary Commission has been given a broad power to decide in the unique circumstances presented by each petition whether borough government is appropriate. Necessarily, this is an exercise of delegated legislative authority to reach basic policy decisions. Accordingly, acceptance of the incorporation petition should be affirmed if we perceive in the record a reasonable basis of support for the Commission's reading of the standards and its evaluation of the evidence.

518 P.2d 92, 97-99 (footnotes omitted).

As with the standards for borough formation in Mobil Oil, the detachment standards here are appropriately general so that they may be applied to a wide range of regional conditions. As in the case of incorporation, the Commission here has been given a broad power, subject to its adopted standards, to decide in the unique circumstances presented by each petition whether a detachment is appropriate. It is the Commission's duty to exercise this power, applying the detachment standards flexibly to produce a recommendation to the legislature that is appropriate under all the circumstances presented in this case.

B. The Commission Should Consider Additional Factors in Applying the Detachment Standards.

To apply the detachment standards with appropriate flexibility, the Commission must decide what factors, if any, in addition to those listed in 19 AAC 10.230(a)(1)-(3) to consider in evaluating a detachment under the best interest standard in 19 AAC 10.230(a). In applying the best interest standard the Commission must consider the factors stated in 19 AAC 10.230(a)(1)-(3), and may consider such additional factors as the Commission deems relevant to applying the best interest standard to the facts in this case. At pp. 38-51 of its brief the North Slope Borough also urges the Commission to consider a wide variety of factors other than those listed in 19 AAC 10.230(a)(1)-(3). NANA suggests that the Commission's decision in this case should indicate what factors the Commission decided to consider in addition to those stated in 19 AAC 10.230(a)(1)-(3).

C. The Commission Should Consider Additional Factors Related to Maximizing Local Self-government.

Although not expressed in the regulations, a major factor supporting detachment is the mandate for maximum local self-government in Article X, Section 1 of the Alaska Constitution:

The purpose of this article is to provide for the maximum local self-government with a minimum of local government units, and to prevent duplication of tax levying jurisdictions.

"Self-Government" implies more than the mere presence of a local government serving the area proposed for detachment. "Self-Government" indicates that the area proposed for detachment should be served by a local government directly accountable to the people immediately affected by local government decisions concerning the Detachment Area. Those people are the residents of the NANA Region. Approving this detachment and the resulting transfer of the Detachment Area to a borough serving the NANA Region clearly would best serve the constitutional mandate for maximum local self-government in the present case.

The North Slope Borough contends that because it is capable of providing government services to, and communicating with, the Detachment Area, 19 AAC 10.230(a)(2) and (3) require that the detachment be disapproved. That is not the case. There are other factors related to maximizing local self-government that the Commission should consider here that are far more important to the merits of the present petition.

The factors stated in 19 AAC 10.230(a)(2) and (3) are most relevant to a pure detachment, one where territory is being detached from an organized borough and returned to the Unorganized Borough. Under those circumstances the heavy presumption in favor of maintaining current local government boundaries that is indicated by the use of words such as "precludes" and "impractical" in 19 AAC 10.230(a)(2), and "precludes" in 19 AAC 19.10.230(a)(3), may be appropriate. Here, however, the proposed detachment is to be conditioned on inclusion of the Detachment Area with the boundaries of another organized borough.

The practical consequences of the detachment proposed here are similar to the consequences of an annexation to one borough of territory in another, rather than the pure form of detachment apparently contemplated by 19 AAC 10.230. Hence in looking for additional factors to use in evaluating this petition, it is appropriate to refer to the standards for annexation of contiguous territory to an organized borough in 19 AAC 10.190(a). Several of the standards listed in that regulation are particularly appropriate to the present case:

- whether the territory is in need of municipal services which the organized borough can provide more efficiently than another municipality or the state (19 AAC 10.190(a)(3))

- there is a reasonable likelihood that future growth and development will occur within the territory and annexation of the territory will enable the organized borough to plan for and control that development (19 AAC 10.190(a)(4))

- residents or property owners receive or may be reasonably expected to receive, directly or indirectly, the benefit of organized borough services without commensurate property tax contributions, whether such services are rendered or received inside or outside the territory (19 AAC 10.190(a)(7))

- whether the annexation is otherwise necessary to accomplish a valid public purpose (19 AAC 10.190(a)(8)).

The Petitioner's arguments for this detachment demonstrate that all of these highly relevant additional factors support approval of the detachment.

D. In applying the Standards for Detachment the Commission Must Balance Local and Statewide interests.

In its previous comments on this detachment, NANA alluded to the Commission's constitutional mandate to assure that local boundary changes conform to statewide, as opposed to merely local, interests. Those comments bear reemphasis. Article X, Section 12 of the Alaska Constitution provided for a Local Boundary Commission so that local government boundaries would be established to serve statewide needs without obstruction by local interests:

Article X [of the Alaska Constitution] was drafted and submitted by the Committee on Local Government, which held a series of 31 meetings between November 15 and December 19, 1955. An examination of the relevant minutes of those meetings shows clearly the concept that was in mind when the local boundary commission section was being considered: that local political decisions do not usually

create proper boundaries and that boundaries should be established at the state level. The advantage of the method proposed, in the words of the committee --

* * * * lies in placing the process at a level where areawide or statewide needs can be taken into account. By placing authority in this third-party, arguments for an against boundary change can be analyzed objectively.

Fairview Public Utility District No. 1 v. City of Anchorage, 368 P.2d 540, 543 (Ak. 1962) (footnotes omitted). In responding to an argument that the Commission's mandate to adjust boundaries in accordance with statewide interests became effective only after boroughs were formed, the Fairview court narrated the history that informed the constitutional convention in the drafting of Article X, Section 12:

This expressed need for state adjustment of local boundaries was of immediate concern, and not something that the delegates considered would arise only after a borough government had been formed. Following World War II the City of Anchorage, the largest municipality in Alaska, experienced such a rapid growth that it soon outgrew its boundaries, and the population of adjacent and contiguous areas became greater than that of the city. This resulted in efforts by the city to annex a number of these heavily populated and unincorporated areas. Those efforts were met by the most determined opposition. In a 1954 case involving the attempted annexation of adjacent territory, Judge Folta remarked:

"Every impediment and dilatory tactic has been employed by the opponents of annexation, except the homesteaders, to obstruct and harass the city in every move in connection with its efforts to extend its boundaries in the traditional manner to include the adjacent areas. Such opposition does not appear to be in the public interest or in good faith."

In 1955 there were petitions for the annexation of three additional areas adjacent to the city. Again there were protests and

concerted opposition, which required determination by the Territorial District Court.

* * *

We cannot assume that when the delegates to the constitutional convention assembled later in 1955, they were unaware of these obstacles faced by Alaska's cities. We cannot assume that they were insensitive to the inadequacies inherent in a system where needed municipal expansion could be frustrated if the electors in a single urban area outside of municipal boundaries did not agree to annexation. In the light of these contemporary realities, we cannot assume that the adjustment of local boundaries at a state level was intended to be delayed pending the formation of boroughs.

368 P.2d 540, 543-546 (footnotes omitted). This history of Article X, Section 12 demonstrates that the fundamental purpose of the Local Boundary Commission is to assure that boundary changes to meet statewide needs are not obstructed by local interests. It totally refutes the North Slope Borough's repeated assertion that local government boundaries are somehow sacrosanct from "forced" detachment. The framers of the Alaska Constitution wisely provided otherwise.

The interpretation of the best interest standard in 19 AAC 10.230(a) advocated by the North Slope Borough cannot be reconciled with the purpose of the Commission mandated by Alaska Constitution Article X, Section 12. 19 AAC 10.230(a) states the best interest standard as follows:

Territory which is part of a borough may be detached from that borough if, in the determination of the Commission, the detachment would be in the best interests of the state, the territory to be detached, and the borough affected by the detachment.

The North Slope Borough contends that this standard requires the consideration of the best interest of each named entity separately. Under this interpretation, if the Commission determines that the detachment is not in the best interest of the North Slope Borough alone, the detachment must be disapproved. Brief in Opposition to Petition, pp. 29, 38-39. In fact, the North Slope Borough goes so far as to argue that opposition to the detachment by its elected officials and rejection of the

proposed detachment by its voters are enough to defeat the proposed detachment under the best interest standard. Brief in Opposition to Petition, p. 46.

The interpretation of the best interest standard advocated by the North Slope Borough would return local boundary changes to the state of affairs described in the Fairview case as prevailing in territorial days, where concerted local opposition could block a needed boundary change. This interpretation would nullify the fundamental purpose of the Local Boundary Commission under the Alaska Constitution. If the best interest standard were so interpreted it undoubtedly would be held unconstitutional and void.

However, there is another, no less reasonable, interpretation of the best interest standard which avoids the constitutional infirmity of the North Slope Borough's interpretation. That is that the Commission must determine the best interests of the three named entities as a whole, by balancing the best interest of each. Under this interpretation, the Commission may determine that the positive effects of the proposed detachment on one entity outweigh the negative effects of the proposed detachment on another entity. The latter interpretation conforms to the function of the Commission described in Fairview - to consider statewide as well as local interests in reviewing a proposed boundary change. Moreover, this interpretation conforms to the rule of statutory construction that an interpretation under which a provision is constitutional is preferred to an interpretation which renders the provision constitutionally infirm. Hammond v. Hoffbeck. 627 P.25, 1052, 1059 (Ak. 1981).

III. The Proposed Detachment Conforms to the Best Interest Standard.

While NANA submits that the proposed detachment is actually in the best interest of the North Slope Borough, the Commission should find that any harm to the North Slope Borough resulting from the detachment is outweighed by the substantial state interest in maximizing local self-government and promoting economic development. In addition to the arguments under the best interest standard in the Brief of Petitioner and the previous NANA comments, NANA submits the following comments in response to the Brief in Opposition to Petition.

The North Slope Borough exaggerates the financial effects of the proposed detachment. The financial community will not perceive the proposed detachment as a precedent for the wholesale dismemberment of the North Slope Borough, much less of other Alaskan municipalities. The capacity of the Local Boundary Commission independently to review each detachment proposal on its individual merits assures that detachments will not be

approved indiscriminately. The present detachment is supported by a unique set of circumstances that do not have a parallel elsewhere in the state. It is no precedent for the boundary changes upon which the North Slope Borough speculates at pp. 41-43 of the Brief in Opposition to Petition. The North Slope Borough has not produced any disclosure document, used in the sale of its bonds, to demonstrate that investors have been led to rely on tax revenues from the Red Dog Mine project in evaluating the North Slope Borough's credit. If this detachment may be defeated by the hypothetical concerns about creditworthiness raised by the North Slope Borough, then so may any detachment. The \$33 million in tax revenues that the North Slope Borough claims it will lose over the next 10 years (Brief in Opposition to Petition, p. 46) amounts, on an annual basis, to only 1% of the borough's current annual operating budget of \$329 million.

The North Slope Borough also seriously understates the cost of providing services to the Detachment Area as the Red Dog deposit is developed. In describing the available air communications among its villages at p. 36 of the Brief in Opposition to Petition, the borough neglects to mention the annual cost to the borough of this service, or the additional cost of extending that service to the Detachment Area. The suggestion that such a service might be provided does not address the issue of the inefficiency of that service as compared to air service from Kotzebue, which already is commercially available. Moreover, the North Slope Borough's assertion that the Red Dog Mine project will not generate any exceptional demand for government services within the Detachment Area (Brief in Opposition to Petition, p. 35) is contradicted by the borough's position concerning the provision of local services to the Prudhoe Bay oilfield area. In opposing reductions in its tax limit under AS 29.53.045 and in its revenue sharing entitlement, the borough has asserted that it provides substantial and costly services to the Prudhoe Bay - Deadhorse area (Attachment 1, pp. 1-2).

The interests that the Commission is to weigh in reviewing this petition are public interests. Private interests are not relevant to the Commission's decision. Nonetheless, the North Slope Borough repeatedly refers to benefits to NANA and Cominco resulting from the detachment. These references distort the facts and warrant a brief response. Whether the detachment is approved or not the Detachment Area will be part of an organized borough. If the detachment is approved the regulatory and tax policies of the borough for the NANA Region may or may not be more favorable to NANA and Cominco than those of the North Slope Borough. The issue will not be determined by NANA and Cominco, but by the residents of the NANA Region and the officials whom they elect. For example, while for planning purposes the new borough's property tax revenues are projected on the assumption of a 3 mil tax rate, nothing would prevent the new borough

assembly from selecting a higher rate. Whatever the outcome, the fact that residents of the NANA Region may make different choices about local regulatory policy and taxation than residents of the North Slope Borough is the very essence of the local self-government that is to be maximized under Article X, Section 1 of the Alaska Constitution.

IV. The Southwest Boundary of the North Slope Borough Established in 1972 Must be Corrected in Accordance with Present Circumstances.

The location of the southwest boundary of the North Slope Borough was not given significant consideration when the Commission reviewed the North Slope Borough incorporation petition in 1971 and 1972. The citations to the Local Boundary Commission record at p. 17 of the Brief in Opposition to Petition only show that on two occasions when the NANA protest of the North Slope Borough's southwest boundary was discussed, the issue was dismissed with the observation that the area was uninhabited.

MR. HEDLAND: Now, if we excluded the area that they're objected to, would you still be including Point Hope?

MR. STRANDBERG: Yes, you would, I'd like to point out something on the map here that they submitted. They note that the exclusion will be areas within the proposed borough South of 68 degrees North latitude and between 154 and a 164 degrees West longitude.

MR. HEDLAND: It's this area here that they're objecting to.

MR. STRANDBERG: If we go to the map and plot it on the the map, its this area right here. Let's see, where is the 69 degree line? It would be about half way. Now, where is 164 degrees? Right here. So the intersection is right about here and the area that they want to exclude comes over here to 154 degrees.

MR. HEDLAND: Does that go right along the Colville River here?

MR. STRANDBERG: No. they're swinging over here on the 69 degree latitude line.

MR. HEDLAND: Is any of that land populated?

MR. STRANDBERG: Let me see. Where is Noatak? No, there is no population there.

MR. HEDLAND: You're talking about land that nobody lives on. The boundaries of the Arctic Slope Land Claims Corporation are what?

MR. STRANDBERG: They're as is proposed for the borough here.

MR. HEDLAND: Well, this contested area here by the Northwest Native Association, is that part of the Arctic Slope or the Northwest Native Land Claims Corporation?

Mr. There is a little conflict overlapping those two claims, Northwest has claimed on up and the Arctic Slope has claimed on down so this area is in conflict.

MR. HEDLAND: Weren't the boundaries set out in the Land Claims Act?

MR. Well, by reference yes. The Secretary of the Interior is directed by statute to conform the regional incorporations to be the same as the existing regional associations unless good cause exists to the contrary.

MR. HEDLAND: Okay, but there's nobody living in this area, I take it, that is contested between the--

MR. If I can add or volunteer a statement, there's a misapprehension as to the boundary of the borough, Northwest has the idea that it's a fence. We had trouble on the Slope.

Attachment 7 to Brief in Support of Petition, pp. 35-37.

MR. HEDLAND: As far as geography is concerned, ethnic relations there isn't any question at all.

MR. North Slope, this was more to form their corporation boundaries with the Lands Claim. There's one little area that they're going to iron out.

MR. On the boundaries on the execution of the Alaska Native Land Claims, the Northwest Native Association and the Tanana chiefs have resolved their boundary problem.

MR. The dispute was over uninhabited land anyway. There wasn't--it wouldn't effect--it doesn't effect--substantially--it's basically bounded by the ocean and the Brooks Range which are certainly natural boundaries.

Id. at p.215.

At p. 17 of the Brief in Opposition to Petition, it is asserted that "the Local Boundary Commission was informed of the mineral resources and development potential of the southwest sector of the proposed borough." The record cited in support of this assertion does not support any inference that the Commission was aware of any mineral potential within the Detachment Area, much less aware of the Red Dog and neighboring zinc deposits. The cited testimony is only a highly generalized discussion of the presence of coal and petroleum resources in the southwestern part of the North Slope Borough. It offers no basis for asserting that the Commission was aware of, or considered, the presence of, zinc or other metal ore deposits in the Detachment Area in establishing the southwest boundary of the North Slope Borough.

Most importantly, no matter how well-considered was the Commission's decision concerning the North Slope Borough's boundaries in 1972, the present petition requires the Commission to consider anew the location of the North Slope Borough's southwest boundary in the light of present circumstances. The Commission is not bound now by its 1972 decision. If the Commission could not reassess previous boundary decisions in response to boundary change petitions, its power to approve boundary changes would be rendered meaningless.

Before the Local Boundary Commission in 1971, NANA vigorously protested the location of the southwest boundary of the North Slope Borough. In early 1972, the Local Boundary Commission nonetheless established that boundary contrary to NANA's position. Thus when NANA was presenting its position on the boundaries of its region, the boundaries of the North Slope Borough were an accomplished fact. Faced with this fact, NANA did not acquiesce in it, but merely argued that the North Slope Borough boundary did not preclude the establishment of a more appropriate region boundary. Similarly, it is turning history on

its head to argue that NANA indicated its consent to the North Slope Borough's boundary by not joining in the Prudhoe Bay oil companies' litigation to invalidate the incorporation of the North Slope Borough.

The doctrine of laches has no bearing on this case. The elements of that doctrine are as follows:

A laches analysis requires the trial court to make two determinations in deciding the effect of a delay in bringing suit. The court must find both an unreasonable delay in seeking relief and a resulting prejudice to the defendant as a result of the delay.

Pavlik v. State, 637 P.2d 1045, 1047 (Ak. 1981). The Petitioner is not now seeking to undo the 1972 incorporation of the North Slope Borough. It has initiated a new proceeding to modify the North Slope Borough's boundary in light of present circumstances. There is ample constitutional, statutory and regulatory authority for this independent proceeding. Additionally, the North Slope Borough has demonstrated absolutely no prejudice resulting from delaying the change in its southwest boundary from 1972 to 1986.

V. Subsistence Use by NANA Region Residents Supports the Petition.

The North Slope Borough claims that the Detachment Area, "generally... is at the margin of overlapping subsistence usage by residents of the NANA Region and the North Slope Borough...", Brief in Opposition to Petition, p. 18. At page 19 of the Brief in Opposition to Petition, the North Slope Borough quotes a report of its anthropological expert in support of this claim. That quote seriously misrepresents the expert's conclusion by omitting the following sentence that contradicts the North Slope Borough's position:

The available evidence indicates that the residents of the North Slope Borough rarely if ever have directly utilized the resources of the proposed Detachment Area during the past 75 years, with the exception of the inland Inupiat/Anaktuvuk Pass people who regularly engage in subsistence activities in the very eastern portion of the area.

Attachment Y to Brief in Opposition to Petition, p. 4. While the exact degree of subsistence use of the area by NANA Region residents is in dispute, it is undisputed that there is some such use. More important, it is undisputed that NANA Region

residents' subsistence activities depend heavily on the river drainages that commence in the Detachment Area. See, e.g. Attachment Z to Brief in Opposition to Petition. The NANA Region people who depend upon these river drainages need a local government than can participate in determining the use of the upland regions in the Detachment Area.

VI. The Proposed Detachment Should be Approved Without Delay.

The people of the NANA Region have expressed a strong interest in forming a borough for their region. A borough incorporation petition circulated in the NANA Region has received over 700 signatures. No one seriously contends that a borough for the NANA Region will be financially viable without the tax base provided by the Red Dog Mine development. The people of the NANA Region are entitled to know whether the proposed borough will be financially viable before voting on its incorporation. Because approval of the proposed detachment will be conditioned upon incorporation of a borough for the NANA Region, the North Slope Borough loses nothing if the voters do not approve the incorporation.

With appropriate regulatory controls, the environmental effects of the Red Dog Mine development may not be significant. However, most of the area surrounding the DeLong Mountain Transportation System presently is in the Unorganized Borough and is not subject to such controls at the local level. While the Red Dog Mine development itself is subject to substantial regulatory control by federal, state and North Slope Borough agencies, none of these agencies is directly accountable to the people most directly affected by the development - the residents of the NANA region. This local accountability is an important purpose of borough government in Alaska, including the North Borough. Mobil Oil, supra, n.14 at 98; see also II.C above.

The social effects of the Red Dog Mine development are more difficult to assess. It is clear that the construction and operation of the Red Dog Mine will have a dramatic effect on employment patterns and income levels with the NANA Region. It is difficult to believe that this major social change will not require an organized community response, and create new demands for government services. A borough government will be an important means of community self-determination in response to the social changes arising from the Red Dog Mine development.

The North Slope Borough acknowledges (Brief in Opposition to Petition, p. 45) that there will be a necessary delay between the forming of a borough for the NANA Region and the implementation of the new government's programs. This fact argues strongly for prompt approval of the proposed detachment.

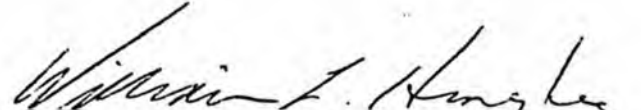
The North Slope Borough has raised no credible argument why the Commission should delay in considering the petition. The proposed detachment has been the subject of public debate for several years. The positions of the interested parties have been fully briefed and documented before the Commission. There are good reasons for prompt action on the petition and no good reasons for delay. The Commission should use its best efforts to approve the petition promptly.

VII. Conclusion.

Under its constitutional mandate and the applicable regulatory standards the Commission is fully authorized to approve the petition. Two constitutional mandates - the Commission's duty to balance local and statewide interests, and the goal of maximizing local self-government - must guide the Commission in evaluating the petition and strongly support its approval. The Brief in Opposition to Petition does not refute the facts supporting the petition, and in several instances severely distorts the relevant facts. In the interest of maximizing local self-government for the people of the NANA Region the Commission should approve the petition without delay.

DATED this 3rd day of January 1986.

NANA REGIONAL CORPORATION, INC.



William L. Hensley
President-Elect

1 IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
2 THIRD JUDICIAL DISTRICT AT PALMER

3 MATANUSKA-SUSITNA BOROUGH,)
4 MUNICIPALITY OF ANCHORAGE,)
5 KENAI PENINSULA BOROUGH, and)
6 FAJRANKS NORTH STAR BOROUGH,)

7 Plaintiffs,)

8 v.)

9 JAY S. HAMMOND, GOVERNOR, JEE)
10 M. ANERNEY, COMMISSIONER,)
11 DEPARTMENT OF COMMUNITY AND)
12 REGIONAL AFFAIRS, and the)
13 STATE OF ALASKA,)

14 Defendants,)

15 and)

16 NORTH SLOPE BOROUGH,)
17 Defendant-intervenor.)

18 Case No. 3PA-82-1131 Civ.

19 AFFIDAVIT

20 STATE OF ALASKA)
21 THIRD JUDICIAL DISTRICT) ss.

22 I, EUGENE BROWER, having been duly sworn, depose
23 and state:

24 BOROUGH SERVICES AT PRUDHOE BAY - DEADHORSE

25 1. That in October of 1981 I was elected and sworn
26 into office as Mayor of the North Slope Borough for a three
27 (3) year term.

28 2. The North Slope Borough provides the following
29 services to employees and other residents located within the
30 Prudhoe Bay - Deadhorse area:

- 31 (a) Potable Water
- 32 (b) Sewage Treatment
- (c) Solid Waste Disposal via Incineration
- (d) Solid Waste Landfill
- (e) Sludge Treatment and Disposal
- (f) Police Protection

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- (g) Search and Rescue Services
- (h) Land Use Zoning and Regulation
- (i) Environmental Inspection and Protection
- (j) Administration, Finance, Legal and other general administrative support for above services

3. The costs of the utility services set out in paragraph 2 (a) - (e) are to be covered by utility rates. However, there was a \$359,590.00 revenue short fall for Fiscal Year 1979 - 1980, and a \$1,815,082.00 revenue short fall for Fiscal Year 1980 - 1981. These revenue operating losses required a \$2,000,000.00 appropriation from the North Slope Borough's general fund. There is also an operating loss for these utilities for Fiscal Year 1981 - 1982 which resulted in a cash position deficit in the amount of \$3,964,018.00. It is likely that this deficit will require an appropriation from the North Slope Borough's general fund.

4. The police protection, search and rescue services, land use zoning and environmental protection are all services that are financed from the North Slope Borough's general fund.

5. The State of Alaska, beginning Fiscal Year 1982, has supplemented the police protection provided by the North Slope Borough by stationing a state trooper at the Prudhoe Bay - Deadhorse area. Room and board for the state trooper is subsidized by the Borough in the amount of \$62,050.00 for Fiscal Year 1982 - 1983.

NEGATIVE IMPACT OF FISCAL YEAR 1982 - 1983 BUDGET REDUCTION

6. The Borough's original budget for Fiscal Year 1982-1983 was based on the assumption that the Borough would

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continue to be able to raise operating revenues under the property tax limitation formula using population figures as they had previously been determined and certified by the

1 Department of Community and Regional Affairs for 1980 and
 2 all previous years. The operating revenue projections used
 3 for the original Fiscal Year 1982-1983 budget were based on
 4 the conservative assumption that the Department would certify
 5 population figures for the Borough for 1981 showing only a
 6 modest increase in population from the 1980 figure of 9,234.
 7 The actual population for the Borough certified by the
 8 Department of Community and Regional Affairs for 1981 was
 9 only 7,098 -- substantially less than had been certified for
 10 1980. The lower population figure, when applied to the
 11 property tax limitation formula, resulted in approximately
 12 \$11,000,000 less in available operating revenues for Fiscal
 13 Year 1982-1983 than had previously been projected.
 14 Consequently, substantial budget reductions were necessary
 15 for a number of Borough programs and services, not including
 16 reductions required for the School Board, as follows:

	Original 82-3	Substitute 82-3	Reduction	
17				
18	Police	\$4,892,500	\$3,392,500	\$ 1,500,000
19	Public Works -			
20	General Services	7,224,500	5,724,500	1,500,000
21	Public Utilities -			
22	Communities	8,910,000	7,410,000	1,500,000
23	Mayor's Office	4,662,100	3,662,100	1,000,000
24	Administration & Finance	6,180,700	5,680,600	500,100
25	Legal	538,700	438,300	100,400
26	Planning & Com- munity Services	3,100,100	2,800,100	300,000
27	Environmental Pro- tection & Conserv.	1,759,500	759,500	1,000,000
28	Health	7,102,300	5,602,300	1,500,000
29				
30	Housing Agency	5,367,600	4,092,600	<u>1,275,000</u>
31				
32				<u>\$10,175,500</u>
				49,738,000 ±

1 These reductions were communicated by me to the members of
2 the Borough Assembly in a letter dated March 12, 1982. (See
3 Exhibit A, attached hereto and made a part of this
4 affidavit.) The appropriation ultimately enacted by the
5 Assembly in Ordinance No. 82-3 (Substitute) reflected the
6 reductions outlined in the March 12, 1982 letter.

7 7. The approximately \$11,000,000 reduction in
8 anticipated operating revenues has had, and continues to
9 have, both direct and indirect effects on the Borough's
10 ability to provide municipal services and to maintain and
11 operate capital improvement projects which have been built
12 over the last ten years, and which are projected to be built
13 over the next six years. These capital projects were
14 constructed under an assumption that operating revenues would
15 be based on the same methods for population determination
16 which had always been employed by the Department of Community
17 and Regional Affairs prior to 1981.

18 8. While it would take a detailed study to
19 categorize, list, and analyze the various effects that the
20 reduction has had on the operations of the North Slope
21 Borough, I will lay out some examples of those effects in the
22 following paragraphs 9 through 20.

23 9. The North Slope Borough cut in excess of 16
24 positions spread over various departments.

25 10. The Utilities Department cut 14 positions, and
26 much of its training programs.

27 11. Despite the cuts in the Utilities Department it
28 is projected that the Utilities budget will still be \$500,000
29 short for this fiscal year. This short falls will be for
30 fuel to run the generators in various villages on the North
31 Slope.

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12. The power houses that are now located in all the villages in the North Slope are not manned properly. National standards recommend that these power houses be supervised on a 24-hour basis. The cut back of 14 people and of the training programs has resulted in a shortage of trained personnel to supervise and operate power houses in the villages. Obviously, the lack of trained personnel to supervise results in inappropriate maintenance and shortened life for the power house generators. This also causes more frequent power failures and said failures increase costs and delays.

13. The Public Works Department maintains many of the capital improvements projects after their completion. While the Public Works Department did not have to eliminate a significant number of positions, increased maintenance costs have made it necessary not to fill many positions so that the funding for those positions can be used to maintain new capital improvements projects. The cutbacks have also eliminated training programs. The shortage of trained personnel reduces the effectiveness of maintenance and increases the amount of time and costs (transportation and per diem) to maintain facilities.

14. There were 20 positions eliminated from the Department of Public Safety. Public Safety operates the Barrow jail and provides police protection to all the communities on the North Slope, including Prudhoe Bay - Deadhorse. The cutbacks in positions resulted in reducing the number of police in the villages from two officers to one officer per village and a reduction of five officers and one investigator in the City of Barrow. It should be noted that there was no reduction in police services to Prudhoe Bay - Deadhorse area.

1 15. The cut of officers in the villages resulted in
2 a lack of adequate police protection. Figuring in personal
3 leave, court time and associated travel, the officers in each
4 village spend only about 50% of their work time on duty in
5 each village.

6 16. The cuts in Barrow resulted in much the same
7 reduction of public safety service and coverage in the Barrow
8 area.

9 17. In the Planning Department the cuts resulted in
10 the delay or elimination of the projects set out below:

- 11 (a) Borough-wide Census
- 12 (b) Barrow Zoning Ordinance
- 13 (c) Cultural Resource, Survey and Data Collection
14 for the Coastal Management Program and
Comprehensive Plan.
- 15 (d) Larger, more comprehensive biological resource
16 inventory for the Point Hope - Point Lay area
17 under the Coastal Zone Management program.
- 18 (e) On-site inspection of existing petroleum
19 development work by the Interim Zoning
20 administrator and staff.
- 21 (f) Production of video tape for presentation of
22 Coastal Zone Management program to the
23 villages and other interested parties.
- 24 (g) Study of impacts of seismic activity on fish,
25 lakes and rivers and on other wildlife.
- 26 (h) Production of as built drawings for all North
27 Slope Borough completed capital improvements
28 projects in each village.

29 18. The Housing Department has a significant
30 maintenance responsibility for the public housing on the
31 North Slope Borough. The cutbacks resulted in reduction of
32 inventories for maintenance and reduction of personnel and
training of personnel for maintenance. These reductions
produce delays in maintenance response time and reduction in

30 the maintenance efficiency. There have also been reductions
31 for personnel to collect rents which undermines the ability
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1 of the Borough to collect the revenues for its public housing
2 in a timely manner.

3 19. The reductions for the school district resulted
4 in a projected delay in opening the new Barrow High School in
5 Barrow, Alaska. It also resulted in the elimination of
6 community programs offered by the school. These programs
7 included recreation and community education programs.

8 20. These operational short falls each can also
9 directly or indirectly affect the operation and maintenance
10 of capital improvements projects. Such short falls are one
11 factor which is considered in rating and insuring North Slope
12 Borough Municipal bonds.

13 BASIC SERVICES PROVIDED BY THE NORTH SLOPE BOROUGH

14 21. In 1972 when the Borough started, the Bureau of
15 Indian Affairs provided education, health, housing and many
16 other of the municipal services that the Borough now
17 provides. The Borough, once organized and financially
18 capable, began to assume the responsibilities for services
19 traditionally provided by the Bureau of Indian Affairs. Due
20 to the deplorable standard of education and housing provided
21 by the federal government through the Bureau of Indian
22 Affairs to the people of the North Slope, and the importance
23 of education and housing to the people of the North Slope,
24 the North Slope Borough put a priority on assuming these
25 responsibilities and upgrading education and housing for it's
26 residents.

27 22. In 1972, the Bureau of Indian Affairs schools
28 existed only in the villages of Wainwright and Point Hope and
29 Barrow. The Borough has taken responsibility for all Bureau

30 of Indian Affairs schools in the North Slope. These schools,
31 which did not meet State fire and health standards, have been
32

1 or are being replaced. In addition, schools have been built
2 in each village so as to comply with state standards.

3 23. Villages in the North Slope in 1972 did not
4 have the infrastructure to support new schools or new houses.
5 There were not adequate airports, roads, electrical
6 distribution, water distribution or sewage collection
7 systems, and there was not adequate platted land on which to
8 locate and build the new schools and houses. The North Slope
9 Borough, through its capital improvements program, has
10 addressed each of these needs and provided them on a
11 Borough-wide basis for each of its villages. As a result of
12 this, each village has graveled roads and airports,
13 generation facilities to provide electricity, trucks to haul
14 water and sewage, houses with central heating, running water
15 and plumbing, warm storage and maintenance buildings to store
16 the trucks and equipment and to maintain the airports,
17 buildings, generation plants, and the school facilities.

18 24. These elementary services have been built and
19 provided in the Borough's first ten years of existence. More
20 recently such necessities as fire protection and health care
21 have been improved via the establishment of fire stations in
22 each village and plans to locate health clinics in each
23 village. Each of these services greatly increases the need
24 for trained personnel, equipment, materials and supplies, and
25 for operating and maintenance procedures, each of which
26 substantially increases the operating expenses of the North
27 Slope Borough necessary to provide these basic services.

28 25. The fiscal constraints caused by the reduced
29 1981 population certification demonstrate that the North
30 Slope Borough will not, if its population continues to be

31 undercounted for 1982 and future years, be able to provide
32 the fundamental needs of transportation, housing, education,

1 fire and police protection, and health care, because the
2 operation and maintenance of these projects is essential to
3 their continued existence or effectiveness.

4 The facts contained in this Affidavit were outlined
5 by me to the Commissioner of Community and Regional Affairs
6 and to the Governor of the State of Alaska prior to action
7 being taken to adopt emergency regulations to restore the
8 Borough to its previous status in terms of "population" and
9 tax limitations.

10 DATED: Jan 21 1983

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12
13 Eugene Brower
EUGENE BROWER, Mayor of the
North Slope Borough

14
15 SUBSCRIBED AND SWORN to before me this 21
16 day of January, 1983.

17
18 Richard J. Lewis
Notary Public in and for the
19 State of Alaska. My Commission
Expires: 11/21/83
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NORTH SLOPE BOROUGH

OFFICE OF THE MAYOR

P.O. Box 68
Barrow, Alaska 99723

Phone: 807-852-2611

Eugene Brower, Mayor



March 12, 1982

Assembly
North Slope Borough
Barrow, Alaska 99723

Gentlemen and Lady:

Enclosed you will find Ordinance 82-3 (Substitute) which now totals \$201,604,800 in comparison to the \$214,160,300 of the original submission.

The enclosed letters were forwarded to the various departments and agencies under my supervision outlining them to revise the original budget details to fit my support figure.

A subcommittee of the Assembly has been meeting with a subcommittee of the School Board. The figure recommended for the school is based upon suggestions from members of that group.

The following compares the changes recommended to achieve the necessary \$12,575,500 net reductions to balance the budget.

	Original 82-3	Substitute 82-3	Reduction
School Board	\$27,510,000	\$23,010,000	\$4,500,000
Police	4,892,500	3,392,500	1,500,000
Fire Protection	601,900	601,900	--
Search and Rescue	1,364,200	1,364,200	--
Public Works - General Services	7,224,500	5,724,500	1,500,000
Public Utilities - Communities	8,910,000	7,410,000	1,500,000
Budgetary Reserves	2,393,000	4,493,000	(2,100,000)
Assembly	431,700	431,700	--
Borough Clerk	107,100	107,100	--
Elections	26,400	26,400	--
Mayor's Office	4,662,100	3,662,100	1,000,000

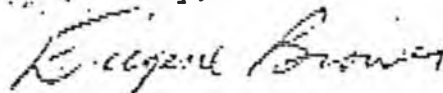
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Exhibit A, page 1

	<u>Original 82-3</u>	<u>Substitute 82-3</u>	<u>Reduction</u>
Administration & Finance	\$6,180,700	\$5,680,600	\$ 500,100
Legal	538,700	. 438,300	100,400
Planning & Community Services	3,100,100	2,800,100	300,000
Environmental Protection & Conservation	1,759,500	759,500	1,000,000
Health	7,102,300	5,602,300	1,500,000
Housing Agency	5,367,600	4,092,600	1,275,000
Debt Service	100,370,000	100,370,000	--
Down Payment Cap. Projects	15,383,400	15,383,400	--
TOTAL General Fund	\$197,925,700	\$185,350,200	\$12,575,500
Service Area 10 Fund	16,254,600	16,254,600	--
TOTAL.	\$214,180,300	\$201,604,800	12,575,500

It is my recommendation that the public hearing on the Ordinance 82-3 (Substitute) be held on March 12, 1982 and the Assembly take action on this ordinance immediately thereafter.

Sincerely,



Eugene Brower, Mayor
North Slope Borough

*

Exhibit A, page 2

NORTH SLOPE BOROUGH

OFFICE OF THE MAYOR

P.O. Box 69
Barrow, Alaska 99723

Phone: 907-852-2611

George N. Ahmaogak, Sr., Mayor

NSB ATTACHMENT # D1



November 7, 1985

Commissioner Emil Notti
Department of Community and Regional Affairs
Pouch B
Juneau, Alaska 99811

Dear Commissioner Notti:

When you and Marty Rutherford met with my staff on October 28 to discuss the proposed detachment, you invited us to submit to you by November 7 any information that might assist you to reach your conclusion. On November 4, you published notice (Attachment 1) signaling your decision to initiate a boundary change petition and to request the Local Boundary Commission (a) to adopt an abbreviated schedule for hearing your petition and (b) to waive certain administrative regulations governing Local Boundary Commission action on detachment petitions.

For many reasons, I believe it is poor and premature policy for the Department to initiate a petition to detach territory from the North Slope Borough at this time. Your decision effectively negates your invitation to us to submit information. Still, I am submitting this letter and information in good faith in hope that your review of them will prompt second thoughts about pressing ahead with a detachment petition now and in the manner you are urging upon the Local Boundary Commission.

My letter of October 10, 1985 to you (Attachment 2) explained the reasons why the North Slope Borough has declined to initiate any change of its jurisdictional boundaries. This was the considered decision of the Borough Assembly and the electorate and it has my whole-hearted support.

Before going further, I want to reaffirm the North Slope Borough's constant position that it supports the efforts of NANA region residents to incorporate a new borough and to develop the Red Dog mine project. My letter of August 1, 1985 (Attachment 3) to Mr. John Schaeffer and Ms. Marie Greene reflects the positive attitude we have maintained throughout our dealings on this matter with NANA region representatives.

For your reference, we are compiling a complete chronicle of the dozen or more public workshops, hearings and meetings conducted by the North Slope Borough Planning Commission and Borough Assembly on NANA's detachment proposal. (Attachment 4 is a partial list of Planning Commission meetings.) All these

November 7, 1985

Page 2

meetings were properly noticed, open to the public and recorded. NANA region representatives attended and participated in almost all of these meetings. This chronicle will comprise the record upon which the Borough Assembly and the electorate reached their decision not to approve submittal of the detachment petition proposed by NANA Regional Corporation. We think it reflects an open and proper process for making important public decisions. After this extended public process, the Borough's electorate evidently judged that some features of NANA's detachment proposal were not in the best and legitimate interests of their government and rejected that approach.

The main reason why our own efforts to deal with the NANA detachment proposal were so lengthy is that some of the elements of their original proposal were poor public policy or patently illegal. Furthermore, some of the testimony, correspondence and public statements offered by advocates of the proposed detachment created a very muddled picture of the reasons for the proposed detachment. We became concerned by suggestions that the pursuit of detachment was prompted by hope of tax relief windfalls, tax base pre-emption and escape from legitimate local governmental regulation in addition to a genuine desire to create a new borough. For example, NANA's Regional Corporation's first formal proposal to us (Attachment 5) asked that the Borough suspend its planning, platting, zoning and other regulatory authority over the Red Dog mine development for three years, pending NANA region borough incorporation.

There is absolutely no need to hurry the detachment process. Even under favorable circumstances, NANA region borough incorporation, the Department's precondition for fulfilling the detachment, cannot be accomplished before the 1987 legislature convenes. At this time, there is no NANA region borough incorporation petition before the Local Boundary Commission and no information to substantiate a presumption that the proposed borough will satisfy statutory standards or that it will be fiscally infeasible without the proposed detachment or fiscally feasible with the detachment.

Furthermore, in the Memorandum of Agreement between the North Slope Borough and Maniilaq Association, both parties agreed that a boundary change would be initiated only after the 1986 legislative session, for approval at the 1987 legislative session. Apparently, what was an agreeable schedule to representatives of NANA Regional Corporation and Maniilaq Association before our October election is not now agreeable to the Department.

The State constitution specifies the deadline for Local Boundary Commission submittal of proposed boundary changes to the Legislature. From today, there are less than ten weeks for the Department and the Local Boundary Commission to complete all steps necessary to forward a boundary change proposal to the next legislative session. Last February 25, 1985, the Local Boundary Commission adopted a policy (Attachment 6) that annexation petitions requiring legislative review be accepted by the Department no later than June 30, 1985. The regulatory procedures for all boundary changes requiring legislative review, including detachments, are, of course, identical.

On March 12, 1985, the Department notified all Alaskan mayors (Attachment 7) that,

"...the Local Boundary Commission has identified June 30, 1985 as the final date that the Division of Municipal and Regional Assistance is to accept

legislative review annexation petitions for consideration by the Second Session of the Fourteenth Legislature...

At a minimum, twelve (12) weeks are required to complete the Department's report to the Commission. The Local Boundary Commission will not schedule hearings until the Department's reports for legislative review annexations are completed...

...The Local Boundary Commission has determined that the Commission will not be able to act on legislative review annexation petitions received after June 30, 1985 for submittal to the Second Session of the Fourteenth Legislature."

As of today, the Department has not accepted or even received a boundary change petition for any North Slope Borough detachment. In view of the policy established by the Local Boundary Commission and transmitted to all mayors, we are disturbed at the Department's double standard to excuse itself from the policy imposed on all other potential petitioners. Presumably the Department would not have accepted a detachment petition submitted by the North Slope Borough or another local government this soon before the legislative session.

We are doubly disturbed by the Department's recommendation that the Local Boundary Commission commit itself to a condensed schedule for this unprecedented proposed detachment. The Department has freely admitted that problems have arisen due to the inadequate public notice and petition review and reply provisions in the present regulations. Indeed, the Department is now considering draft revised administrative regulations that set specific deadlines for boundary change procedures. The draft revised regulations require a minimum of 135 days between departmental acceptance of a boundary change petition and the Local Boundary Commission's hearing date. This is nearly triple the time you recommend to process the Department's pending detachment petition. What is the Department's position on the adequacy of the notice and review provisions of the Local Boundary Commission's administrative regulations?

Let me recount briefly from the Department's own analyses and earlier Local Boundary Commission decisions, the social, geographic and economic reasons why the Local Boundary Commission and the courts legitimized the North Slope Borough's original boundaries.

In its Statement of Findings of Fact and Statement of Conclusions (Attachment 8) regarding the North Slope Borough incorporation petition, the Local Boundary Commission applied the statutory standards to reach the following conclusions about the Borough's proposed boundaries:

"The Commission finds that the area encompassed by the proposed boundaries contains a population which, on the whole, share common ethnic origin and cultural heritage.

The Commission finds that the proposed borough meets this (geographic) standard in every respect...

The Commission finds that the proposed borough meets this (economic) standard in that commercial activity takes place among the various communities, with Barrow as the regional hub...The trading area described by the

proposed borough boundaries is almost precisely that which is defined in Alaska Natives and the Land for the North Slope region."

The specific boundary change addressed in the pending petition is, in fact, old business to the Local Boundary Commission. The official record and Local Boundary Commission meeting minutes for the North Slope Borough incorporation petition clearly show that in 1972 the Local Boundary Commission explicitly considered and rejected the Northwest Alaska Native Association's protest against the validity of the North Slope Borough's proposed southwest boundary (Attachment 9). The minutes also show that the Local Boundary Commission, even then, anticipated the implications of its boundary decisions upon the formation of future rural boroughs. In sum, your detachment petition essentially asks the Local Boundary Commission to resurrect for reconsideration a policy choice that the Local Boundary Commission thoroughly considered and settled over thirteen years ago, consistent with the Local Affairs Agency's (the Department's predecessor) own recommendation.

We are aware that some advocates of detachment have stated the principle that borough jurisdictions should conform to ANCSA native regional corporate boundaries. To the contrary, we note that every existing borough was incorporated or initiated before Congress passed the Alaska Native Claims Settlement Act. The criteria by which the Secretary of the Interior later set boundaries between ANCSA regional corporations does not take precedence over the standards for municipal boundary determination enacted by the Alaska Legislature. And, as the Department of Community and Regional Affairs' map (Attachment 10) of the jurisdictions of the eleven existing boroughs and the boundaries of ANCSA regional corporations clearly shows, there is not a single instance where the boundaries of an established borough match native corporate boundaries. Does the present boundary change petition mean that DCRA will advocate petitions to the Local Boundary Commission for wholesale revisions in other established borough jurisdictional boundaries?

The Local Boundary Commission standards for review of petitions for detachment from organized boroughs stress that the service requirements of the detached territory must be met. The North Slope Borough has already adopted a comprehensive borough plan that is now being implemented by the issuance of permits and other appropriate regulatory activity at the Red Dog minesite. The Borough and Cominco will be meeting on November 12 to review a draft master plan for the Red Dog mine. The Borough has standing capability to provide such critical public services as public safety, medical evacuations, search and rescue and other public services to the Red Dog mine area, as it already does its jurisdiction. Overall, the North Slope Borough, as an established home-rule borough, is plainly better prepared to attend to the public service needs of the proposed detachment area than an inexperienced and newly organized second class borough.

The Borough has all along supported and will continue to support development of the Red Dog mine project. The detachment issue is not a factor in the Red Dog mine development schedule. Mr. John Schaeffer, then president of NANA Regional Corporation, testified at a public meeting that the mine project can proceed regardless of detachment. Likewise, Cominco and Alaska Industrial Development Authority staff have told us that detachment is not a consideration in their current negotiations to conclude their agreement for State financing of Red Dog mine access road and port facility construction.

November 7, 1985

Page 5

With regard to the mining project's economic feasibility, we call to your attention the findings of the Economic Evaluation and Finance Plan for the Proposed Delong Mountain Transportation System recently (July 31, 1985) prepared by SRI International for the Alaska Industrial Development Authority. This independent study's basic financial analysis (Attachment 11) concluded that, during its first eleven years of operation, the Red Dog mine would pay \$215,150,000 in royalties to NANA Regional Corporation and net after-tax profits of \$168,740,000 to Cominco. The figures for the first thirty years of operation were over two billion dollars (\$2,052,750,000) in NANA royalties and \$849,620,000 in net after-tax profits for Cominco. Clearly, local taxation is not an economic hardship that warrants tax relief for this project or shifting its tax burden to other North Slope Borough local taxpayers.

I am also enclosing a preliminary analysis prepared by E.F. Hutton (Attachment 12) of the damaging effect of the proposed detachment of the Red Dog minesite upon the North Slope Borough's future assessed valuation, revenues and creditworthiness. This preliminary analysis does not address the value of the Lik, Su or other mineral resources in the detachment area.

To put this fiscal issue in perspective, please recall your Department's recommendation (Attachment 13) and the Local Boundary Commission's recent decision (Attachment 14) to reject the proposed Lake Louise detachment petition from the Matanuska-Susitna Borough. Rejection was justified in part because, to quote both your Department's recommendations and the Local Boundary Commission's decision,

"The Matanuska-Susitna Borough would be adversely affected by the detachment of the Lake Louise area. It would reduce the assessed valuation of \$6,941,700, which would negatively affect the bonding capacity of the borough".

The Department's Report to the Local Boundary Commission went on to note that,

"As the bonding ability of the Borough is based upon the level of taxable property, the uncertain future of current boundaries could have a debilitating effect upon the Borough's bond rating and capacity to issue bonds. In addition, there are other regions within the Matanuska-Susitna Borough that are in a similar situation to the Lake Louise area and this detachment could, again, set a precedent for future detachment proceedings from the Matanuska-Susitna Borough. Therefore, it would not be possible for the Borough to assure the bonding market of a consistent future valuation".

Obviously, compulsory detachment of nearly a quarter billion dollars in assessed valuation will have far more serious implications for our local government finances.

In light of all these facts, I strongly urge you to reverse your unprecedented decision to launch this detachment petition and not to ask the Local Boundary Commission to waive administrative standards and abbreviate its proceedings. I am advised that your proposed course of action is flawed by procedural defects. The Borough will protest any procedural waivers that infringe upon due process before the Local Boundary Commission and, if necessary, litigate any denials of due process.

November 7, 1985
Page 6

In conclusion, each and every local government in Alaska has a vital interest in these proceedings. We all deserve fair, equal and reasoned treatment, as opposed to the hurried improvisation which now threatens the jurisdictional and fiscal integrity of the North Slope Borough.

Instead, I strongly urge the Department to take a leadership role in this critical matter and to develop sound and innovative fiscal alternatives as a foundation for the NANA region borough.

Thank you.

Sincerely,

Earl Finkler
for George N. Ahmaogak, Sr.,
Mayer
North Slope Borough

Attachments

cc: Marty Rutherford, DCRA
Harold Curran, Attorney, NSB
Earl Finkler, Director, Planning Dept.
File

LOCAL BOUNDARY COMMISSION

STATE OF ALASKA

STATEMENT OF FINDINGS AND CONCLUSIONS ON THE PETITION PROPOSING
INCORPORATION OF A FIRST CLASS NORTH SLOPE BOROUGH

A petition proposing the incorporation of a first class North Slope Borough was received by the Local Affairs Agency on April 4, 1971. In accordance with the provisions of AS 07.01.060, the agency reviewed the petition and on May 7, 1971, notified the representative of the petitioners, the Arctic Slope Native Association, that the petition was in the proper form, containing the required number of signatures of qualified voters and other information in compliance with the provisions of AS 07.10.020.

In accordance with AS 07.10.080, the agency immediately initiated an investigation to determine if (1) the proposed incorporation of the borough, (2) the proposed composition and apportionment of the borough assembly, and (3) the proposed assignment of areawide powers met the standards for borough incorporation set out in Alaska Statutes Title 7. The agency completed this investigation and transmitted its findings in the form of a report to the Local Boundary Commission date December 2, 1971.

With the consent and upon the direction of the Local Boundary Commission the agency published notice of a public hearing on the North Slope Borough petition for December 2, 1971 in the City of Barrow, in compliance with AS 07.10.100. Notice of the hearing was published in newspapers of general circulation in northwestern, interior and northern areas of the state and, additionally, was posted in the Cities of Barrow, Wainwright, Point Hope, Anaktuvuk Pass and Kaktovik, all within the boundaries of the proposed borough, pursuant to notice requirements set forth at AS 44.19.290. The public hearing was held before the Commission at the specified time and place.

The Local Boundary Commission held a public decisional meeting in Anchorage on February 23-25, 1972, at which time it rendered final disposition to the North Slope Borough petition.

Having considered the entire written record established and maintained for the Commission by the Local Affairs Agency, the oral and written testimony advanced at the public hearing by the petitioners' representative, the Arctic Slope Native Association, municipal officials and residents of North Slope communities, representatives of corporate interests affected by the borough proposal, and other parties, as well as information bearing on the incorporation proposal derived independent of the December 2, 1971 Barrow public hearing, the Commission, by unanimous vote of the members present, accepted, with

especially education. Considering normal apprehension of citizens toward additional governmental control, the petitioners and other interested persons individually and through the Arctic Slope Native Association at the public hearing persuasively demonstrated general accord with respect to borough incorporation. The Commission also finds that the incorporated status of all North Slope communities (all are fourth class cities) evidences a measure of sophistication indicative of the population's general understanding of local government and its fundamental purposes. The Commission further observes that it is almost unprecedented that of a given five villages of the size of those on the North Slope, all are fourth class cities.

C. "... (the population) shall have a clear understanding of the undertaking for which they ask, and shall be large enough and stable enough to warrant and support the operation of organized borough government."

The oral and written testimony entered on record by the petitioners and other interested and affected parties has demonstrated to the Commission that this standard has been met. The level of interest in the borough proposal was shown by the large number of Barrow residents in attendance at the public hearing. The Commission, although recognizing the difficulty in assessing the population's understanding of a borough incorporation proposal, finds that the representations made by the petitioners' representative, the Arctic Slope Native Association and the officials from four out of five of the communities in attendance at the public hearing revealed a working knowledge of organized borough functions.

The Commission further notes that the visits to the communities conducted by staff members of the Local Affairs Agency and officials of the Arctic Slope Native Association during the investigative period preceding the Barrow public hearing contributed substantially to public awareness and understanding of the North Slope Borough proposal.

GEOGRAPHY

A. "... the boundaries of the proposed organized borough shall conform generally to the natural geography of the area proposed for incorporation."

The Commission finds that the proposed borough meets this standard in every respect in that the area is generally bounded by the crest of the Brooks Range and the Arctic Ocean, and insofar as geography and ethnic relations are concerned, the proposed borough encompasses a cohesive group of people.

B. "... (the boundaries) shall include all areas necessary and proper for the full development of integrated local government services,

but shall exclude all areas such as military reservations, glaciers, icecaps and uninhabited and unused lands unless such areas are necessary or desirable for integrated local government."

The Commission finds that the boundaries of the proposed borough encompass all areas which would be necessary for full development of integrated local government services. While recognizing that the proposed borough area includes uninhabited land, the Commission also observes that these same lands are not unused in that public hearing testimony and other authoritative documentation (Alaska Natives and the Land) in the record substantiates historic and present seasonal occupation of the North Slope lands by residents engaged in subsistence hunting and fishing activities. The Commission specifically notes that the Distant Early Warning Line (DEW Line) sites located at intervals along the Arctic Ocean Shores and the Navy Petroleum Reserve Number 4 (PET 4) are not military reservations in the sense contemplated in the standard and are therefore includable within the borough boundaries. The Commission also notes that the area proposed for incorporation is devoid of extensive glaciation and icecaps.

ECONOMY

"...the economy of the proposed organized borough shall encompass a trading area with the human and financial resources capable of providing an adequate level of governmental services. In determining the sufficiency and stability of an area's economy, land use, property valuations, total economic base, total personal income, present and potential resource or commercial development, anticipated functions, expenses, and income of the proposed organized borough, shall be considered."

The Commission finds that the proposed borough meets this standard in that commercial activity takes place among the various communities, with Barrow as a regional hub. The boundaries proposed in the petition approximate the outer limits of this trading area, the Brooks Range to the south forming a natural barrier separating interior communities in the Yukon, Koyukuk, Kobuk and Noatak river drainages from those on the Arctic North Slope. The trading area described by the proposed borough boundaries is almost precisely that which is defined in Alaska Natives and the Land for the North Slope region.

The area proposed for incorporation possesses financial resources capable of providing an adequate level of governmental services. The Peat, Marwick, Mitchell and Company report on projected revenues and expenditures of an operative North Slope confirms the viability of an organized first class borough on the Arctic Slope. The petroleum exploration and development activities in the Prudhoe Bay area comprise the greatest part of the taxable real and personal

property tax base at the present time. The extensive mineralization of the North Slope region portends significant development activity for many years to come. The emergence of new communities is likely with the expected expansion of mineral exploration and development. The new developments will broaden the economic base and at the same time increase the need for governmental services which a first class organized borough is capable of providing.

The traditional subsistence economy is evolving rapidly into a cash economy. Per capita personal incomes, while presently low in comparison to those of the state as a whole (\$1,345 in 1969 on the North Slope versus \$4,000 in 1969 for the state), are increasing. Expanding oil, mineral and tourism industries as well as projected continuation of national defense and research programs provide further breadth to the economic base of the North Slope community of interests.

The anticipated local governmental functions to be undertaken by an incorporated first class North Slope Borough are within the capabilities of the human and financial resources of the proposed area. An integrated system of regional education for primary and secondary students is critically needed and would be within the financial reach of the proposed regional borough government considering the present economic base and conservative estimates of the expanded base attendant with further industrial development.

The Native Land Claims Settlement Act of 1971 will result in Native regional and village corporations being established and acquisition of substantial acreage which will enable North Slope residents to plan for self-sustaining economic enterprises. The Land Claims Settlement alone will bring substantial financial resources to the Arctic Slope region. Regional borough government will enhance this development through coordinated land use and zoning controls.

For the first year's operation, an organized first class North Slope Borough is estimated to require \$575,000 from local sources for general municipal services. Based on an estimated \$260 million tax base, the borough would have a levy of 2.21 mills. The second year, 89.5% of the expenditures for municipal services, or a 3.21 mill levy, will be necessary to produce the required \$810,000. The third year, 90% or a 2.65 mill levy applied to an increased tax base of \$325 million will be necessary to produce the required \$860,000. During the initial operation, the Commission expects that the borough would exercise only its mandatory powers of education, planning, platting and zoning and property tax assessment and collection.

TRANSPORTATION

A. "...the transportation facilities in the area proposed for incorporation shall be of such a unified nature as to facilitate the communication and exchange necessary for the development of integrated local government and a community of interests."

The Commission finds that this standard has been met in all respects. In the view of the Commission, the essence of this standard is that the people residing within an area proposed for borough incorporation must be close enough together or accessible enough to get back and forth among communities. In this regard, it is observed that all communities within the proposed North Slope Borough are served by either regularly scheduled certificated commercial air carriers or properly equipped and licensed air charter companies or both. The frequency and quality of service is more than sufficient to provide the communication and exchange contemplated for establishment of a community of interests in turn defining the need for integrated local government.

B. "...means of transportation may include surface (both water and land) and air."

The primary mode of travel in the Arctic Slope region is by air. Nearly all communities are served by modern turbine-powered commercial aircraft utilizing well-developed and maintained airport facilities. Surface transportation is still in the developmental stages with a highway presently contemplated between Fairbanks and the North Slope in conjunction with the Trans-Alaska pipeline. Water transportation, although seasonal, provides means by which North Slope communities may be supplied by bulk cargo, supplementing regular freight arrivals by commercial carriers. Weir Consolidated Airlines, an Alaskan based carrier, has established an integrated schedule serving all communities within the proposed borough. Barrow and Prudhoe Bay are served by Boeing 737 aircraft providing fast, conveniently scheduled services.

C. "...areas which are accessible to other parts of a proposed organized borough by water or air only may not be included within the organized borough unless access to them is reasonably inexpensive, readily available, and reasonably safe."

The Commission finds that this particular aspect of the transportation standard has been met and is substantiated by the record which has been established. In adopting this view, the Commission has compared the costs for citizen participation under the present arrangement in which the Legislature has the authority to sit as the assembly for the unorganized borough

government on the North Slope. The Commission further recognizes that representatives of four of the five communities on the North Slope attended the December 2, 1971 public hearing in Barrow, and this fact alone is indicative of readily available, reasonably safe and relatively inexpensive air travel. The Commission finds that transportation access to the areas proposed for borough incorporation is readily available, reasonably priced and reasonably safe. No substantial information was submitted to or brought to the attention of the Commission to prove otherwise.

D. "...in considering the sufficiency of means of transportation within a proposed organized borough, existing and planned roads and highways, air transport and landing facilities, boats and ferry systems, and railroads, shall be included."

The Commission finds that the transportation systems have been adequate for handling considerable traffic between the communities in the proposed borough area for the past several years. Residents of the North Slope have undertaken this transportation for the purpose of choir exchange programs, employment in one city of residents from another city, visitation church teams sharing education programs among the cities, Arctic Slope Native Association educational programs in the villages and friendship visits. There is a significant amount of inter-relationship of families among all North Slope communities, which results in travel to and from communities at all times of the year.

CONCLUSIONS

The Commission hereafter sets forth the conclusions of applicable law implicit in the Commission's acceptance of the petition for a first class North Slope Borough.

I.

The petition filed herein requesting incorporation of a first class organized borough under the name North Slope Borough is in the form prescribed by the Local Affairs Agency and is in compliance with the requirements of AS 07.10.020.

II.

The petition herein has been reviewed by the Local Affairs Agency in compliance with AS 07.10.060 and the agency had conducted an investigation and prepared a report to the Commission in compliance with AS 07.10.080 and AS 07.10.090.

III.

The findings of the Local Affairs Agency investigation were transmitted in the form of a written report to the Commission prior to the December 2, 1971 Barrow public hearing. The agency report concluded that the petition herein met the standards for incorporation.

IV.

The proposed borough meets each of the standards for incorporation set forth at AS 07.10.030.

V.

The North Slope Borough petitioners have satisfied all requirements of Title 7 of the Alaska Statutes and all of the necessary procedures have been followed by the Local Affairs Agency and Local Boundary Commission for a determination pursuant to AS 07.10.110 that the proposed North Slope Borough meets the standards for incorporation and the composition and apportionment prescribed by law, and for the Commission to accept the petition.

VI.

The petition meets all standards provided by law and required for acceptance of a petition by the Local Boundary Commission.

VII.

The Commission specifically concludes that the assembly composition and apportionment plan proposed in the petition is in compliance with the equal population representation (one-man, one-vote) rulings of the United States Supreme Court and applicable provisions of Title 7 of the Alaska Statutes. As proposed in the borough incorporation petition, the five-member assembly is to be elected by and from the qualified voters resident within the boundaries of the borough without regard to distinction between city and non-city areas and without regard to sections for representation.

VIII.

Pursuant to AS 07.10.050, the areawide powers which the proposed North Slope Borough can effectively and efficiently exercise are all those powers mandatorily or optionally prescribed for first class boroughs at Title 7 of the Alaska Statutes, and no others, except as may be assumed pursuant to law.

IX.

The boundaries of the proposed North Slope Borough shall generally

be as requested in the petition and as hereunder corrected for technical clarity:

Beginning at a point in the Chukchi Sea where 68° North Latitude intersects the westerly boundary of the State of Alaska; thence in an easterly direction along the 68° North Latitude line to its intersection with 146° West Longitude; thence northerly along the 146° West Longitude line to its intersection with 68°30' North Latitude; thence easterly along the 68°30' North Latitude line to the easterly boundary of the State of Alaska; thence northerly along the boundary common to the State of Alaska and Canada to the northernmost boundary of the state of Alaska; thence meandering westerly, north-westerly, westerly, southwesterly, southerly, and southeasterly along the boundary of the State of Alaska in the Beaufort Sea, Arctic Ocean and Chukchi Sea to the point of beginning, containing 56,500 acres, more or less.

56,500,000 ^{GB}

X.

The basic thrust of the Article X of the Alaska Constitution is to encourage "maximum local self-government with a minimum of local government units, and to prevent duplication of tax-levying jurisdictions." In the implementation of this purpose, the Legislature is directed to vest all local government powers in boroughs and cities only and to arrange for the division of the state into boroughs, organized or unorganized, in accordance with standards adopted by law. Article X, Sections 2 and 3, Alaska Constitution. Cities are to be a part of the organized or unorganized borough in which they are located. Article X, Section 7, Alaska Constitution. The Legislature is further directed to "classify boroughs and prescribe their powers and functions," and to prescribe "...methods by which boroughs may be organized, incorporated, merged, consolidated, reclassified, or dissolved..." Article X, Section 3, Alaska Constitution.

Although reserving the authority to mandate incorporation of organized boroughs (specific example, Chapter 52, SLA 1963) and to provide for performance of services deemed necessary or advisable in unorganized boroughs (Article X, Section 6, Alaska Constitution and AS 07.05.010), the Legislature has established at Title 7, Alaska Statutes, the means by which organized boroughs may be incorporated by local action. The Legislature has defined the single unorganized borough as all areas of the state which are not within the boundaries of an

organized borough. AS 07.05.010.

The Legislature has delegated broad authority to the Local Boundary Commission to determine which areas of unorganized borough shall be given the opportunity to incorporate as an organized borough. AS 07.10.010-07.10.140. The absence of statutory expression as to subdivision of the single unorganized borough for limited local government purposes into multiple units conforming to population, geography, economy and transportation standards and other factors lead to Commission decisions founded on the theory that eventually the entire state will be divided into organized boroughs, on the basis of application of constitutional and legislative standards.

These findings of Fact and Conclusions of law, published as a matter of ministerial procedure for the purpose of elucidating in summary fashion the officially recorded administrative and statutory actions, are adopted this 10th day of May, 1972, at Ketchikan, Alaska.

LOCAL BOUNDARY COMMISSION

STATE OF ALASKA

John S. Hedland, Chairman

Christopher C. Bernsdorff

Christopher Bernsdorff

Allen Shontz

Gary Ackerman

LOCAL AFFAIRS AGENCY

STATE OF ALASKA

Byron I. Mallott, Director

Sigvald J. Strandberg, Secretary

To: Kevin Waring; Consultant for the North Slope Borough
From: Edwin S. Hall, Jr., Edwin Hall and Associates
Date: 13 December 1985
Re: Available evidence on historic and recent utilization of the proposed detachment area by peoples from NANA and the North Slope Borough

Introduction

The purpose of this memorandum is to summarize and evaluate the available evidence on the utilization of the proposed detachment area for subsistence purposes by the people of NANA and the North Slope Borough.

Before discussing the archæological, documentary and oral testimony evidence dealing with use of the area in question, a general comment seems appropriate. In the Brief prepared by the Commissioner of the Alaska Department of Community and Regional Affairs (pages 21 ff.) the general summary *Alaska Natives and the Land* is utilized as the basic source for data on the social and cultural characteristics of the NANA and North Slope Borough peoples. This source is not particularly well-written, is out of date (1968) and limited as a data base (for example, the seasonal use maps are only for the period 1950-60), and is exceedingly generalized. It does not seem appropriate to rest such an important issue on a questionable data base. A great considerable amount of primary data is available dealing with the peoples of NANA and the North Slope Borough (see some of the references in this memo), much of which has been collected and analyzed in the past 20 years. Furthermore, it may well be that further data must be collected before an informed decision can be made on some of the issues raised by the proposed detachment.

Archæological evidence

As part of his petition, the Commissioner of the Alaska Department of Community and Regional Affairs submitted a map (Exhibit D-6) which supposedly shows locations of archæological and historic sites in the proposed detachment area. The map is hopelessly out of date. More to the point, it does not illustrate, as is implied, that NANA peoples or their ancestors utilized the disputed area and (by implication) people from the North Slope Borough did not. The present state of the art rarely permits confident assignment of archæological remains to specific societal groups (the lineal ancestors of the Point Hope Iñupiat for example) and this reality is particularly apparent when dealing with archæological sites—even early historic ones—within the territory in question. Unless oral history accounts or documentary evidence directly demonstrate that the ancestors of a living NANA individual occupied or utilized a specific site, it is impossible to deny the possibility that members of some other societal group were responsible for the archæological site. In the case of sites within the proposed detachment area, I would estimate that more than 90 percent are not assignable to a specific societal group. Therefore, the simple presence of archæological sites in the disputed area is meaningless in the context of the present controversy.

Another problem with more recent archæological sites is that the earlier historic period (ca. 1800-1910) was one of such great population flux, cultural disintegration, and cultural reorganization in northern Alaska (see Burch 1981: *The Traditional Eskimo Hunters of Point Hope, Alaska: 1800-1875* for an example of the processes involved and the results) that it is difficult to definitely equate readily delimited societal groupings with long-term utilization of the resources in a particular specific territory. For example, Burch (1980: "Traditional Eskimo Societies in Northwest Alaska," in *Alaska Native Culture and History*, edited by Kotani and Workman, pp.253-304) writes of the Kivalina society: "The population was nearly exterminated by the famine of 1882-84; the survivors fled to other regions, and only a few returned." He further notes (page 293) that many people from the Shishmaref region moved into the Kivalina area around the turn of the century. Other regions in Northwest and North Alaska were affected by similar population declines and mass population movements in the late 1800s. Therefore, any specific association of a particular cohesive societal group and a particular geographically demarcated resource base at a specific point in time is very difficult. Only during the past 75 years, with the appearance of permanent year-around villages, can such an association be confidently made.

Use of the disputed territory by North Slope Borough residents

A review of the pertinent literature on land utilization in the western portion of the disputed territory, the section from approximately the Red Dog mine west, reveals no mention of the presence of Point Hope people, or other North Slope Borough groups, during the time period being considered. Recent interviews in Point Hope confirm this assessment. Point Hope people do secure Arctic char (in its frozen form a favorite food at whaling camps) and ugruk skins in trade from the Kivalina people (Braund, personal communication).

Any concerted use of the middle portion of the disputed territory—the section within the Noatak River valley—during the past 75 years by individuals from the North Slope Borough seems doubtful. During the early part of the century some inland Iñupiat, whose normal activities were centered in the central Brooks Range, travelled west into the disputed territory from the upper Noatak where they often hunted (Hall 1984 fieldnotes). During the fur trapping era, individuals from the north coast *might* have travelled across the divide into the disputed area, but there is no documentary evidence available for this possibility. Burch (1976: "Overland Travel Routes in Northwestern Alaska," in *Anthropological Papers of the University of Alaska*) has detailed at least eight travel routes between the Noatak River drainage and the Arctic Slope which pass through the disputed area. These were established travel routes as of the middle 1800s, when people moved across the mountains in both directions. Undoubtedly the same routes were utilized, at least occasionally, up until the turn of the century and then again during the fur trapping era, but no specific documentary information is available on who travelled where and when.

The far eastern part of the proposed detachment area, primarily the portion in the Nigu River drainage south and west of Etivluk Lake, was fairly intensively utilized by inland Iñupait during the first two decades of the current century and then again in the late 1930s and through the 1940s (Irving, L. n.d.: "Biological Reconnaissance in the region of Howard Pass in the Brooks Range of Alaska;" Hall, Gerlach and

Blackman 1985: *In the National Interest: A Geographically Based Study of Anaktuvuk Pass Iñupiat Subsistence Through Time* [see especially the land use maps—both individual and collective—in Volume 2]). In the 1950s and early 1960s the area was visited almost every spring by Anaktuvuk Pass hunters during wolf-pupping trips. In the late 1970s, when the winter travel efficiency of the snowmobile overcame the disadvantages (from the point of view of a hunting people) of permanent settlement at a specific location, the Anaktuvuk Pass people re-established utilization of the upper Nigu area. Today it remains an important travel route, camping area and subsistence locus.

Use of the disputed territory by NANA residents

The nature and extent of NANA residents' historic and recent utilization of the proposed detachment area are difficult to ascertain because relatively few land use studies have been conducted in the area and because the brief submitted by the Commissioner lacks the necessary baseline data to allow such a determination. Exhibit D-5 and the Brief, pages 21-3, assert that a goodly portion of the disputed territory is characterized by intensive subsistence use on the part of NANA residents. These data are suspect for several reasons: (A) No definition of the crucial term *intensive* is provided so that the reader is aware of exactly what "intensive subsistence use" entails. For the purposes of my comments here, "intensive subsistence use" means that the majority of the subsistence needs of several families, or a substantial portion (but not necessarily a majority) of a larger group's requirements are met by harvest of subsistence resources in the area. (B) The map is much too generalized and the data upon which it is based has not been made available. For example, information I have gleaned in casual conversations with Noatak residents (supported by Braund, personal communication) suggests that subsistence activities in the middle Noatak River region are almost exclusively confined to a narrow corridor along the river, contrary to the map illustration. (C) The lands designated as intensive use zones incorporate substantial areas that are rarely or never used by NANA residents. For example, the whole area around the Red Dog deposit lies outside the region fished by Kivalina or Noatak people and at the very margin of the area hunted for caribou (Braund and Burnham 1983). (D) All data available to me suggest that many of the area designated as intensive use zones in reality are used only rarely for subsistence purposes. For example, there is at least one allotment at Feniak Lake, but I seriously doubt that the area indicated has received anything but the slightest use (and that probably mostly recreational) in the past 50 years.

The basic problem in any attempt to characterize subsistence use of the disputed area is that few recent detailed studies are available. In the western portion of the area, the preparation of the Red Dog EIS involved a fairly intensive subsistence study (Braund and Burnham 1983: *Red Dog Mining Project: Kivalina and Noatak Subsistence Use Patterns* ; also found in Cominco baseline study). Land and resource use in the far eastern portion of the territory is discussed in a study of Anaktuvuk Pass Iñupiat subsistence activities (Hall, Gerlach and Blackman 1985). However, the only specific study (scattered data are available in studies with other foci) apparently dealing with subsistence use in the central portion of the disputed territory is that conducted by NANA as part of its Coastal Management program which

resulted in the map reproduced as Exhibit D-5. As crucial data such as the research design, actual data gathering techniques, basic definitions, data actually collected and type of analysis are not made available, it is impossible to evaluate NANA's assertions about subsistence use in relation to the issues involved in the detachment question.

A brief summary of the available data suggests that NANA residents made moderate use of some areas within the western portion of the proposed detachment for hunting (but apparently rarely for fishing). In the Noatak basin, the western two "intensive subsistence use" areas delineated on the map also receive light to moderate use, but subsistence activities are mainly confined to the main river valley and may not extend as far north as indicated. In the central portion of the river, the occasional useage that occurs apparently is pretty much confined to the immediate river valley. According to the map, the two eastern use areas barely impinge on the proposed detachment area (and, in actuality, the subsistence activities being depicted may not extend into the detachment area); the available evidence indicates that these areas receive only occasional attention from subsistence users.

It must be stressed that NANA may possess better data on the harvesting of subsistence resources in the proposed detachment area. However, the data presently available to the North Slope Borough suggests that the proposed detachment area has not been particularly important, in subsistence terms, to the residents of NANA, except perhaps in the very western portion.

In conclusion, a specific study directed towards establishing the nature and intensity of subsistence harvesting within the disputed area is necessary. A general map is not sufficient evidence for the assertion that the people of Noatak and Kivalina "... have commonly used the land and rivers of the proposed detachment for harvesting subsistence resources" (Brief, page 22; emphasis mine).

Conclusion

The available evidence indicates that the residents of the North Slope Borough rarely if ever have directly utilized the resources of the proposed detachment area during the past 75 years, with the exception of the inland Iñupiat/Anaktuvuk Pass people who regularly engage in subsistence activities in the very eastern portion of the area. On the other hand, a thorough review of the available evidence and further field work quite likely will disclose that NANA's claim of extensive subsistence resource harvesting in much of the proposed detachment area is not an accurate reflection of reality.

Sent to all MAYORS

March 12, 1985

Dear :

RE: DEADLINE FOR LEGISLATIVE REVIEW ANNEXATION PETITIONS

This is to inform you that the Local Boundary Commission has identified June 30, 1985, as the final date that the Division of Municipal and Regional Assistance is to accept legislative review annexation petitions for consideration by the Second Session of the Fourteenth Legislature.

Therefore, if your community or residents intend to submit a legislative review annexation petition in 1985, the steps which must be taken before legislative review annexation recommendations are submitted to the Legislature are:

1. The Department of Community and Regional Affairs must review and accept the petition and issue a factual report which contains a recommendation concerning the proposed action.
2. Following the issuance of the report, the Commission must schedule and conduct a public hearing on the action in the city proposing the annexation.
3. The Commission must develop a recommendation for the Legislature on the proposed action.
4. The Commission must submit an annual report to the Legislature, with all legislative review recommendations, within the first ten (10) days of the 1986 session.

At a minimum, twelve (12) weeks are required to complete the Department's report to the Commission. The Local Boundary Commission will not schedule hearings until the Department's reports for legislative review annexations are completed.

RE: DEADLINE FOR LEGISLATIVE REVIEW ANNEXATION PETITIONS
March 11, 1985
Page 2

Because the logistics involved in completing the necessary reports and holding hearings for several such annexations prior to the statutory deadline become quite difficult if petitions are submitted late in the year. The Local Boundary Commission has determined that the Commission will not be able to act on legislative review annexation petitions received after June 30, 1985 for submittal to the Second Session of the Fourteenth Legislature.

If you have any questions concerning this decision or if this deadline is going to create extreme difficulties, please contact Gene Kane, Staff Assistant to the Local Boundary Commission, in Anchorage at 561-8586.

Sincerely,

Marty Rutherford
Director

cc: Emil Notti, Commissioner, Department of Community and
Regional Affairs
Local Boundary Commission Members
MRAD Field Offices

*Harold - I have asked for copy of LBC
minutes or other record of meeting
at which they discussed reason
for this policy. KW*

ERIC E. WOHLFORTH
ROBERT B. FLINT
TIMOTHY G. MIDDLETON
PETER ARGETSINGER
ROBERT M. JOHNSON
GEORGE T. FREEMAN

LAW OFFICES
WOHLFORTH & FLINT
A PROFESSIONAL CORPORATION
900 WEST 5TH AVENUE, SUITE
ANCHORAGE, ALASKA 99501

MAT. No. _____	SUSITNA BOROUGH
Date Rec'd: 8-11-82	Initials: _____
Noted By: _____	TELEPHONE
	AREA CODE 907
	276-6401

August 11, 1982

NSB ATTACHMENT #

AAA

Mr. Gary Thurlow
Borough Manager
Matanuska-Susitna Borough
P.O. Box B
Palmer, Alaska 99645

Re: In the Matter of the Detachment of Territory
from the Matanuska-Susitna Borough

Dear Mr. Thurlow:

In our capacity as bond counsel, you have advised us that there is a pending petition for detachment of certain property from the Matanuska-Susitna Borough. The area proposed to be detached has an assessed valuation amounting to \$6,941,700. The total assessed valuation of the Borough, including the area proposed for detachment, is \$1,220,634,129.

The assessed valuation of the property proposed to be detached is so modest in comparison to the total assessed valuation of the entire Borough as not to create in and of itself a problem in necessary disclosure for future Borough bond financings or to appear to detract from the Borough's power to pay bonded indebtedness and other charges.

However, in our opinion, the successful detachment of the area would create a precedent for future detachments which would warrant disclosure in bond offering documents so as to put potential investors in Borough bonds on notice that the tax base of the Borough may be eroded further and more significantly. To my knowledge, no detachment or disannexation petitions have been granted with respect to those municipalities in the State, including the Matanuska-Susitna Borough, which have sold bonds for their various public purposes. The Matanuska-Susitna Borough is a substantial issuer of public indebtedness now having an outstanding indebtedness understood to be \$61,668,000. In our opinion, a granting of the detachment petition, since it would establish a precedent for future such actions, could

EXHIBIT "B"

Exhibit 1
18-37

Mr. Gary Thurlow
August 11, 1982
Page 2

significantly detract from the Borough's continued ability
to access public borrowing markets at reasonable rates.

If further information is needed, please call on
us.

Very truly yours,

WOHLFORTH & FLINT

By Eric E. Wohlforth
Eric E. Wohlforth

EEW/cm

STATE OF ALASKA
LOCAL BOUNDARY COMMISSION

STATEMENT OF DECISION

Decision regarding the)
petition for the detachment)
of the Lake Louise area)
containing 432 square miles)
from the Matanuska-Susitna)
Borough)

On July 29, 1982 the Department received the Lake Louise petition to detach 432 square miles of territory from the Matanuska-Susitna Borough.

After reviewing the petition for accuracy and completeness it was forwarded to the Matanuska-Susitna Borough on August 6, 1982. In accordance with 19 AAC 10.640, the Matanuska-Susitna Borough Assembly held a public review (August 17) on the petition and returned the petition with the Borough's Answering Brief to the Department on August 20, 1982.

Pursuant to proper notice the Local Boundary Commission held a public hearing on the petition for the proposed detachment on September 25, 1982. The hearing began at 1:00 p.m. in the Evergreen Lodge at Lake Louise. Local Boundary Commission members present were: Sheila Gallagher, Sigvald Strandberg, Bert Greist, and Josephine Anderson. Testimony was presented by Paul Holland, Petitioners' Representative, Gary Thurlow, representing the Matanuska-Susitna Borough, and sixteen additional speakers.

On January 8, 1983 in Juneau, Alaska, at 4:30 p.m. the Commission held its decisional meeting on the Lake Louise detachment petition. Local Boundary Commission members present were: Sheila Gallagher, Bert Greist, Sigvald Strandberg, and Charles Bettisworth.

Upon consideration of the Lake Louise petition to detach 432 square miles of territory from the Matanuska-Susitna Borough, the September 9, 1982 Report of the Department, the November 1, 1982 Supplemental Report of the Department, and the testimony presented at the public hearing, the Local Boundary Commission hereby makes the following findings of fact:

1. The detachment of the Lake Louise area from the Matanuska-Susitna Borough would not be in the best interests of the State, the Lake Louise area, and the Matanuska-Susitna Borough.

The Borough form of government establishes the means of providing local government for an area of the State which is culturally, economically, and geographically related. If the Lake Louise territory was allowed to detach, it would become part of the unorganized borough. In essence, the detachment would remove a portion of an organized borough which has been functioning and providing services on a regional basis for the past eighteen years. The Lake Louise area would then become a part of the State's administrative responsibility. Given the fact that the Matanuska-Susitna Borough was formed by legislative action, and that the removal of the Lake Louise area would only transfer the responsibility of service delivery to the State, the Commission finds no best interest to be achieved for the State. Perhaps most significant with respect to the issue of the State's interest, the Lake Louise area is characteristic of vast areas of the eleven existing organized boroughs and unified municipalities. If this area detaches it could set a precedent that could readily be followed by similar areas.

The Matanuska-Susitna Borough would be adversely affected by the detachment of the Lake Louise area. It would reduce the assessed value by \$6,941,700 which could negatively affect the bonding capacity of the Borough.

The State of Alaska is anticipating distributing 2,635 parcels of land in the Lake Louise area over the next three years. With this potential for future growth and development in the Lake Louise area, it is possible that the community of Lake Louise will have an increasing need for borough areawide services.

- 2) The Matanuska-Susitna Borough has 20,544 square miles with a population of 19,123. Within this immense area there is a diversity of social, cultural and economic settings. More than 70% of all borough residents live outside the four largest communities (Palmer, Wasilla, Houston and Talkeetna). The rural population of the borough has many similarities in that it is distributed along the road system, it experiences high unemployment and seasonal work, and has moved to the rural areas of the Borough within the last 20 years. There are no indications that the residents of the Lake Louise community differ substantially from the majority of the Borough residents residing in the rural areas of the Borough.

- 3) The Matanuska-Susitna Borough currently levies an areawide mill rate of 4.9 mills and a nonareawide mill rate of 0.5 mills. The areawide functions are primarily concerned with the education, school bond debt service, planning, land management and taxation. The remoteness and insignificant school age population of Lake Louise has, from a practical standpoint, limited Borough services. However, that is not to say that with the future anticipated growth within the Lake Louise area that the residents and future residents would not receive services commensurate with the rest of the Matanuska-Susitna Borough and the potential for such services will encourage the area's growth.

4. Communications with the Lake Louise area are more difficult than in many other areas of the Matanuska-Susitna Borough. The community has limited telephone service in that it can only be reached through a radio patch phone service in Anchorage. This does make immediate communication between the Borough government and the community relatively difficult. However, the community of Lake Louise is accessible by road on a year round basis. This enables the community to receive scheduled mail service. Therefore, it can be concluded that although communication and transportation services to the Lake Louise area are relatively difficult they do not preclude the exchange necessary for response of an integrated local government.

THEREFORE, the Commission hereby does not approve the petition to detach the Lake Louise area containing 432 square miles of territory from the Matanuska-Susitna Borough and will recommend against such action to the First Session of the Thirteenth Legislature of the State of Alaska; and

THEREFORE, the Commission does recognize that there are areas of the unorganized borough of the State that are receiving the equivalent of municipal services without the responsibility of local tax contributions. Additionally, there are remote areas of the State's organized boroughs that are assessed taxes for the delivery of minimal services which in the unorganized borough are paid for by the State; and

THEREFORE, the Commission recommends to the First Session of the Thirteenth Legislature that it investigate the need for the formation of borough governments in areas of the State that have the economic base available to cover the cost of such government.

Decided on the 8th day of January, 1983.

STATE OF ALASKA LOCAL BOUNDARY COMMISSION

By: Sheila Gallagher Date: 2/28/83
Sheila Gallagher, Acting Chairman

By: Charles Bettisworth Date: 2/29/83
Charles Bettisworth, Member

By: _____ Date: _____
Bert Greist, Member

By: Sigvald Strandberg (DISSENTING VOTE) Date: 2/16/83
Sigvald Strandberg, Member

STATE OF ALASKA

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

DIVISION OF LOCAL GOVERNMENT ASSISTANCE

JAY S. HAMMOND, GOVERNOR

REPLY TO:

- POUCH BH
JUNEAU, ALASKA 99811
(907) 465-4707
- 225 CORDOVA STREET, BLDG. B
ANCHORAGE, ALASKA 99501
(907) 264-2201
- P.O. BOX 348
BETHEL, ALASKA 99559
(907) 543-3475
- P.O. BOX 41
NOME, ALASKA 99762
(907) 443-5457
- P.O. BOX 280
KOTZEBUE, ALASKA 99752
(907) 442-3675
- 1514 CUSHMAN RM. 211
FAIRBANKS, ALASKA 99701
(907) 452-7126

September 22, 1982

Lake Louise Detachment Petition

To Whom It May Concern:

The Report to the Local Boundary Commission of the State of Alaska on the Petition to Detach the Lake Louise Area from the Matanuska-Susitna Borough, contains two errors. Please note the following changes (underlined material indicates text that is being added and bracketed material in capital letters indicates deletion).

- 1) Page 3 - The second to last sentence in the third paragraph should be amended to read:

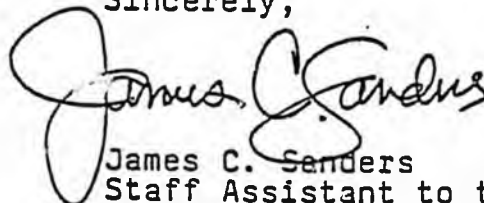
In the past 18 years only [ONE] two boroughs (the North Slope Borough and the Haines Borough) have been established.

- 2) Page 4 The last sentence of the second paragraph should be amended to read:

When this growth does begin to occur, the need for borough areawide services (education [FIRE] and planning) will become evident.

Thank you for your indulgence.

Sincerely,



James C. Sanders
Staff Assistant to the
Local Boundary Commission

JCS/sj

NSB ATTACHMENT # **BBB**

REPORT TO THE LOCAL BOUNDARY COMMISSION OF THE
STATE OF ALASKA ON THE
PETITION TO DETACH THE LAKE LOUISE AREA FROM THE
MATANUSKA-SUSITNA BOROUGH

Department of Community and Regional Affairs
Division of Local Government Assistance

September 9, 1982

I. INTRODUCTION

The Matanuska-Susitna Borough was incorporated on January 1, 1964 under the provisions of Chapter 52, SLA 1963, known as the "Mandatory Borough Act". The Borough is comprised of approximately 20,544 square miles and has an estimated population of 19,123.

The Matanuska-Susitna Borough is the second largest in the State (behind the North Slope Borough), with a land mass exceeding the combined areas of the Haines Borough, Bristol Bay Borough, Kodiak Island Borough, Ketchikan Gateway Borough, City and Borough of Sitka, City and Borough of Juneau and the Municipality of Anchorage. Although much of the Matanuska-Susitna Borough is accessible by road, there are large areas which are remote and inaccessible.

The area of Lake Louise is located in the extreme eastern portion of the Matanuska-Susitna Borough. The area is accessed by an 18 mile road leading from the Glenn Highway to the southern end of Lake Louise. The community, based at the southern end of Lake Louise, is approximately 136 highway miles from Palmer and 45 highway miles from Glennallen. The map at the end of this report identifies the area proposed for detachment from the Matanuska-Susitna Borough.

The majority of the Lake Louise residents are seasonally employed during the summer months. The three lodges on the southern end of Lake Louise provide the economic and population base for the community. The majority of the land within the territory proposed for detachment is owned by the State. The Matanuska-Susitna Borough owns no land within the territory proposed for detachment.

The petition proposes to detach 432 square miles of territory from the Matanuska-Susitna Borough. The area proposed for detachment comprises 2.10% of the Borough territory, and the Lake Louise population (33) represents 0.17% of the Borough population. Of the 432 square miles proposed for detachment, 216 square miles are uninhabited State land.

According to the Borough, there are 28 registered voters and 213 dwellings in the Lake Louise area. Most of these dwellings are recreational in nature. There are 363 tax parcels in private ownership in the Lake Louise area. The property tax to be generated from the territory proposed for detachment during the current fiscal year is approximately \$37,485. The total assessed valuation of the real and personal property at Lake Louise is \$6,941,700 or 0.67% of the total assessed value of the Borough (\$1,037,000,000). The residents of the Lake Louise area contend that they receive no Borough services. The Borough, however, does maintain a public landfill in the Lake Louise area and

offers an educational program for Lake Louise students if they choose to attend school in Glennallen. According to Paul Holland, petitioners' representative, there were no children from Lake Louise attending the Glennallen school last year nor will there be this year. There are only two children in Lake Louise of school age. These students from Lake Louise have chosen a home teaching option which is provided by the Borough and the State of Alaska. The Borough also exercises planning on an areawide basis. Although the effect of the planning activities may not be readily apparent in Lake Louise, the prospect of several thousand new land owners in the area (details below) establishes the need for planning of future growth and development in the Lake Louise area.

According to the Borough, the State of Alaska is going to subdivide and distribute land in the Lake Louise area in the immediate future. An additional 2,635 parcels of land will be transferred from State ownership to private ownership. Therefore, there will likely be significant growth in the Lake Louise area within the next several years. According to the Alaska Department of Natural Resources, the State has classified 102.87 square miles of this territory for remote parcel distribution. In the State fiscal year 1983, approximately 23.44 square miles of this land will be distributed in 30 acre parcels. Additionally, 22.6 square miles of land around the lake have been classified for subdivision disposal. Approximately 3,200 acres (5 square miles) will be distributed by the State during fiscal years 1983 and 1984. These parcels will be 5 to 10 acre plots.

II. PROCEEDINGS TO DATE

On July 29, 1982 the Department received the Lake Louise petition to detach 432 square miles of territory from the Matanuska-Susitna Borough by the "local action - election" process. This petition was submitted to replace the withdrawn Legislative Review detachment petition submitted on April 20, 1982. After reviewing the current petition for accuracy and completeness it was forwarded to the Matanuska-Susitna Borough on August 6, 1982. In accordance with AAC 10.640, the Matanuska-Susitna Borough Assembly held a public review (August 17) of the petition and returned the petition with the Borough's Answering Brief to the Department on August 20, 1982.

Proper notice has been given for the Local Boundary Commission's public hearing and decisional meeting on the Lake Louise detachment petition. This hearing is scheduled for September 25, 1982 at 1:00 p.m. in the Evergreen Lodge at Lake Louise.

III. STANDARDS FOR DETACHMENT FROM AN ORGANIZED BOROUGH

The following discussion outlines the considerations the Local Boundary Commission must weigh according to statutes and regulations in reaching a decision on the petition to detach the Lake Louise area from the Matanuska-Susitna Borough.

WILL THE DETACHMENT BE IN THE BEST INTEREST OF THE STATE, THE LAKE LOUISE AREA AND THE MATANUSKA-SUSITNA BOROUGH?
(19 AAC 10.230)

The issue of best interest must be addressed at each level before an overall consensus can be achieved on this issue. It is difficult to determine what effect the detachment of the Lake Louise area would have upon the State as a whole.

It is fair to state that the Alaska Constitution anticipates that the entire State would be divided into organized boroughs with some areas of the State that could not economically support a borough, becoming the unorganized borough. More than 26 years have passed since the Constitution was ratified by the voters, yet only 25 per cent of the area of the State is organized through borough governments. In the past 18 years only one borough (the North Slope Borough) has been established. No boroughs have been formed in the past 10 years.

The borough form of government establishes a means of providing local government for an area of the State which is culturally, economically and geographically related. If the Lake Louise territory was allowed to detach, it would become part of the unorganized borough. In essence, the detachment would remove a portion of an organized borough which has been functioning and providing services on a regional basis for the past eighteen years. The Lake Louise area would then become a part of the State's administrative responsibility. Given the fact that the Matanuska-Susitna Borough was formed by legislative action, and that the removal of the Lake Louise area would only transfer the responsibility of service delivery to the State, the Department finds no best interest to be achieved for the State. Perhaps most significant with respect to the issue of the State's interest, the Lake Louise area is characteristic of vast areas within the eleven existing organized boroughs and unified municipalities. If this area detaches it could set a precedent that could readily be followed by similar areas. Such would have a significant adverse effect on the State.

The Matanuska-Susitna Borough would be adversely affected by the

detachment of the Lake Louise area. It would reduce the assessed value by \$6,941,700 (0.67%), which would negatively affect the bonding capacity of the borough. As the bonding ability of the Borough is based upon the level of taxable property, the uncertainty in future of current boundaries could have a debilitating effect upon the Borough's bond rating and capacity to issue bonds. In addition, there are other regions within the Matanuska-Susitna Borough that are in a similar situation to the Lake Louise area and this detachment could, again, set a precedent for future detachment proceedings from the Matanuska-Susitna Borough. Therefore, it would not be possible for the Borough to assure the bonding market of a consistent future valuation.

The residents of the Lake Louise community feel that there are definite benefits in detaching from the Matanuska-Susitna Borough. Primarily they would not be paying taxes for services which they feel are not received. Currently, 73% of the Borough's areawide mill levy is for education, 2% for parks and recreation, 3% for planning, 2% for civil engineering, 2% for assessment and property management and 18% for other costs. The residents of this area feel that the unorganized borough which borders the Lake Louise lake system offers an opportunity to continue living the same lifestyle without the burden of taxation without reciprocal benefits. While the desire to avoid taxation is readily appreciated, this approach ignores the potential for growth following the State distribution of 2,635 parcels of land in the Lake Louise area. When this growth does begin to occur, the need for borough areawide services (education, fire and planning) will become evident.

ARE THE SOCIAL, CULTURAL AND ECONOMIC CHARACTERISTICS OF THE POPULATION OF LAKE LOUISE SUBSTANTIALLY DIFFERENT OR IN CONFLICT WITH THE REMAINDER OF THE POPULATION OF THE BOROUGH?
(19 AAC 10.230)

The Matanuska-Susitna Borough has 20,544 square miles with a population of 19,123. Within this immense area there is a diversity of social, cultural and economic settings. More than 70 per cent of all borough residents live outside the four largest communities (Palmer, Wasilla, Houston and Talkeetna). The rural population of the Borough has many similarities in that it is distributed along the road system, it experiences high unemployment and seasonal work, and has moved to the rural areas of the Borough within the last twenty years. There are no indications that the residents of the Lake Louise community differ substantially from the majority of Borough residents residing in the rural areas of the Borough.

IS THE GEOGRAPHIC LOCATION OR CONFIGURATION OF THE TERRITORY PRECLUDING THE PROVISION OF BOROUGH SERVICES PROVIDED OTHER AREAS OF THE BOROUGH OR MAKING THE PROVISION OF BOROUGH SERVICES IMPRACTICAL? (19 AAC 10.230)

The Matanuska-Susitna Borough currently levies an areawide mill rate of 4.9 mills and a non-areawide mill rate of 0.5 mills. The areawide functions are primarily concerned with the education, school bond debt service, planning, land management and taxation. The non-areawide functions are primarily concerned with libraries, emergency medical services, solid waste disposal and animal control. The geographic location of the Lake Louise area and its small school age population make the provision of education services to the community impractical at this time. As there is no school in the Lake Louise area, all of the students have opted for education correspondence courses. However, the students do have a choice between the Borough administered correspondence course or the State administered course. The Borough is also willing to pay the Copper River Regional Educational Attendance Area \$2,180 for each child from the Lake Louise area who chooses to attend school in the Glennallen school. The Matanuska-Susitna Borough has made arrangements with the State of Alaska's Department of Education Student Transportation Office for school bus transportation for Lake Louise children who wish to attend the Glennallen school.

The remoteness and insignificant school aged population of Lake Louise has, from a practical standpoint, limited Borough services. However, that is not to say with the future anticipated growth within the Lake Louise area that the residents and future residents would not receive services commensurate with the rest of the Matanuska-Susitna Borough and the potential for such service will encourage the area's growth.

IS THE LACK OF TRANSPORTATION FACILITIES INCLUDING THE COMMUNICATION AND EXCHANGE NECESSARY FOR RESPONSIVE AND INTEGRATED LOCAL GOVERNMENT? (19 AAC 10.230)

Communications with the Lake Louise area are more difficult than in many other areas of the Matanuska-Susitna Borough. The community has limited telephone service in that it can only be reached through a radio patch phone service in Anchorage. This does make immediate communication between the Borough government and the community relatively difficult. However, the community of Lake Louise is accessible by road on a year-round basis. This enables the community to receive scheduled mail service. Therefore, it can be concluded that although communication and transportation services to the Lake Louise area are relatively difficult they do not preclude the exchange necessary for responsive and integrated local government.

IV. CONCLUSIONS AND RECOMMENDATIONS

The detachment proposal has almost total support among the residents of the Lake Louise community. The residents of this area feel that they are paying an inequitable amount of Borough taxes and are being ill-served by a more urban based Borough government. To some degree, the concerns of the Lake Louise residents are justified. Some arewide services provided by the Borough to Lake Louise residents are not available at the same level as those provided to the more populated and accessible areas of the Borough.

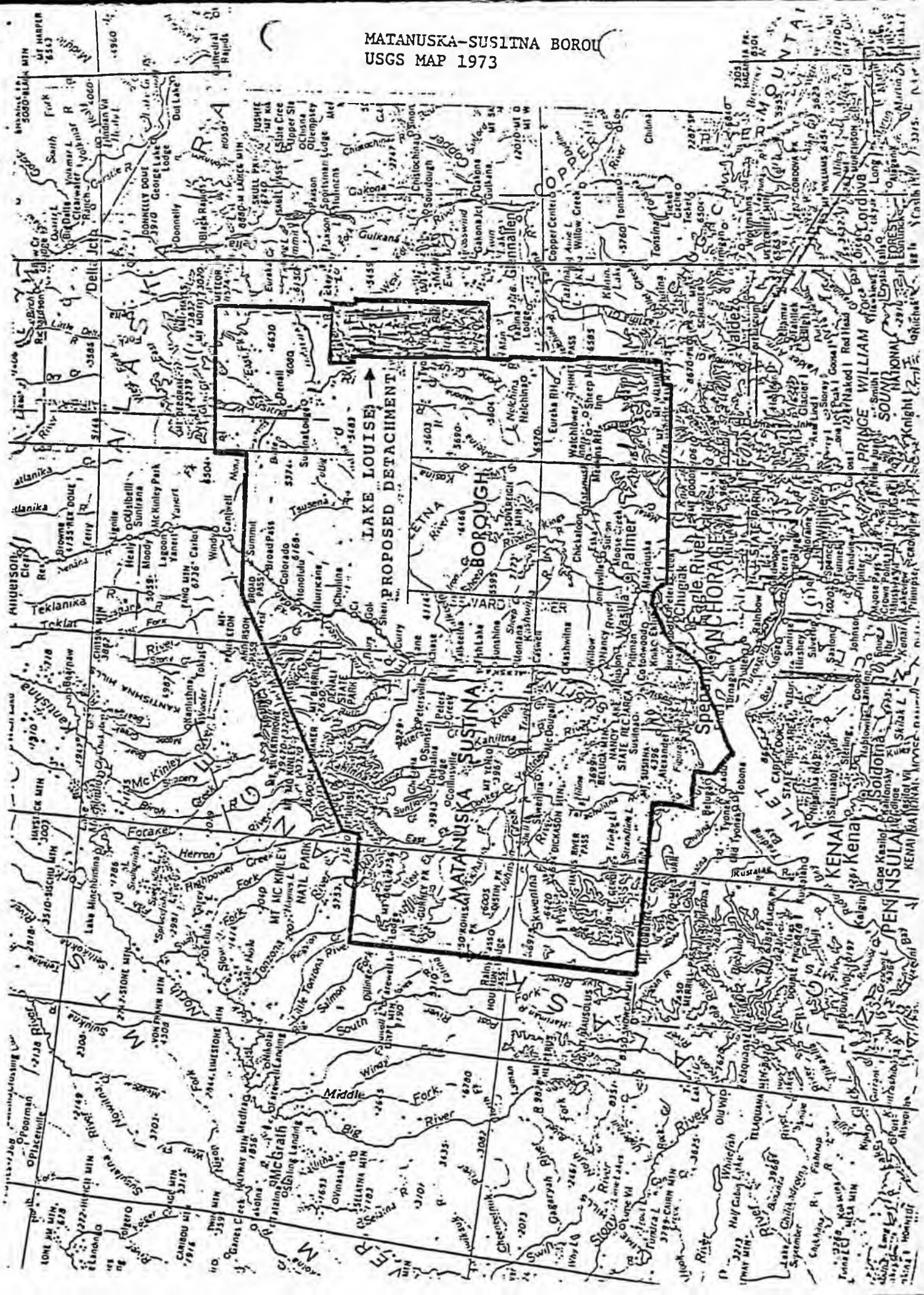
However, as the Matanuska Susitna Borough continues to grow and particularly the Lake Louise area begins to enter a development phase, the commonality of social, cultural and economic interests of both groups will begin to merge.

There are no geographic configurations which preclude the provision of Borough services to the area, and there are facilities which adequately allow proper communication between the Lake Louise area and the Borough seat of government. Further, it is apparent that the proposed detachment is not in the best interests of the State or the Matanuska-Susitna Borough.

In the Department's view the standards for detachment as prescribed in 19 AAC 10.230. have not been met in the Lake Louise petition to detach from the Matanuska-Susitna Borough. Therefore, the Department of Community and Regional Affairs recommends that the Local Boundary Commission deny the detachment proposal in the Lake Louise petition.

The Department further recommends that the Local Boundary Commission, in its annual report to the legislature, address the issue and status of borough government throughout the State. Particularly, there is a need for a thorough review of the inequitable burden for the payment of local services (particularly education) which currently exists within organized boroughs. Hopefully, this would encourage the State to develop a means of resolving this longstanding inequity.

MATANUSKA-SUSTINA BOROU
USGS MAP 1973



Eagle River Star 1/23/86

— EDITORIALS —

Councils play important role

The municipal planning commission last week approved an Eagle River rezoning petition despite opposition from neighbors and a unanimous vote (12-0) from the area's community council.

We are concerned, not that the commission based its decision on other criteria than those which led the council to its vote, but with a commission member's opinion regarding councils. Commissioner Alicia Iden dismissed the council vote, saying community councils were not intended to be "another layer of government."

COMMUNITY COUNCILS ARE provided for in the charter which is the basis for local government in the Municipality of Anchorage. While Chugiak - Eagle River residents were vehemently opposed to the charter which Anchorage residents succeeded in passing in 1976, many local people had a hand in its preparation.

Having thrice staved off unification during the preceding decade under the banner "It Ain't Writ Rite," they wanted to insure that charter provisions offered the least possible damage. The charter finally did worm its way through the back door and Chugiak - Eagle River residents are happy that their work provided some safeguards.

One of those safeguards is the community council provision. If not the most important item in the charter (retaining the service area concept was the top priority), it certainly is at the head of the list.

COMMUNITY COUNCIL IMPORTANCE was so great, in fact, that they are listed in a so-called Bill of Rights. Third of 13 is "the right to establish local community councils to assure maximum community self-determination, exercised in conjunction with others and without infringement upon the rights of other persons."

That importance is further borne out in Article VIII, which deals exclusively with councils. It reads, "The Assembly by ordinance shall provide for establishment of community councils to afford citizens an opportunity for maximum community involvement and self-determination. The ordinance shall include procedures for negotiation between the local government and each community council with respect to the duties and responsibilities of the community council."

If you want to find the planning commission's place in the charter, look to Article XII, Planning. Section one says, "The Assembly by ordinance shall adopt and implement, and from time to time modify, a comprehensive plan setting forth goals, objectives, and policies governing the future development of the municipality." The next section, in just 11 words, deals with the planning commission: "There shall be a planning commission constituted as provided by ordinance." Don't bother looking in the Bill of Rights. The planning commission isn't listed there.

NOT ALL COUNCILS throughout Anchorage are effective. None is as active as any of the six Chugiak - Eagle River area councils. Residents here take an interest in what goes on around them. They participate in their councils. Their councils should be given the consideration they deserve.

Councils are not a layer of government. They have no power. But they are the only unified voice residents can have in laying a neighborhood viewpoint before government decision-makers. When you're stuck in one end of a megalopolis, you need all the help you can get to let the folks who occupy the city tower know things look a little different on this side of the mountain.

Forming a separate borough

People in the Kotzebue area gained an historic victory Monday when the state's local boundary commission granted their petition to separate themselves from the North Slope Borough and form a local government unit of their own.

It was something this community tried unsuccessfully to do a decade ago. Arguments for this week's action echo those raised here.

THE KOTZEBUE PEOPLE are benefitting from work done by Chugiak - Eagle River residents. When our petitions were rejected, there were no regulations under which the move could be accomplished.

Ed Willis, then a member of the state senate, gained legislative changes and pushed the administration to promulgate regulations. Attorney Vince Vitale worked with the state to come up with the wording covering detachment of an area from a borough and creation of a separate borough.

The desire to regain independence continues to be expressed here. It is a desire which probably can never come true now that the city is so firmly entrenched in this community.

WE REJOICE FOR the new borough in Northwest Alaska. We are glad to have been able to do something to help pave the way for their success. We watch with interest as they move forward.

ALASKA LOCAL BOUNDARY COMMISSION
NOTICE OF PUBLIC HEARINGS/MEETINGS

Yonnie
DEC 19 1986

Notice is hereby given that the Alaska Local Boundary Commission will hold a series of public hearings and meetings to consider and act upon the petition by the Alaska Department of Community and Regional Affairs for the detachment of approximately 3,298 square miles from the North Slope Borough.

The hearings will be subject to the procedures outlined in 19 AAC 10.420. The Chairman of the Local Boundary Commission may impose reasonable limitations of the time allotted to each speaker and may curtail repetitive and irrelevant statements.

The hearings are scheduled to occur as follows:

- ° JANUARY 8, 1986 - 10:00 A.M. at the following location:
University Plaza Building
949 East 36th Avenue, Suite 404
Anchorage, Alaska
- ° JANUARY 9, 1986 - 10:00 A.M. at the following location:
Noatak School
- ° JANUARY 9, 1986 - 7:00 P.M. at the following location:
Kotzebue Senior Citizens Center

This hearing will also be conducted using telephonic communications (conference telephones) at the following locations:

- Kivalina - McQueen School
- Ambler - City Office Building
- Shungnak - Shungnak School
- Noorvik - Noorvik High School
- Selawik - IRA Conference Room
- Buckland - Buckland School
- Deering - Deering School
- Kiana - Kiana Elementary School
- ° JANUARY 10, 1986 - 10:00 A.M. at the following location:
Point Hope High School Library
- ° JANUARY 10, 1986 - 7:00 P.M. at the following location:
Barrow High School Auditorium

This hearing will also be conducted using telephonic communications (conference telephones) at the following locations:

- Anaktuvuk Pass - Anaktuvuk Pass School
- Atkasuk - Atkasuk School
- Nuiqsut - Nuiqsut School
- Point Lay - Cully School
- Wainwright - Alak High School
- Kaktovik - Kaktovik School

Following the hearings, the Commission will conduct a decisional session in Fairbanks as follows:

- JANUARY 11, 1986 - 11:00 A.M. at the following location:
Noel Wien Library Auditorium
1215 Cowles Street
Fairbanks, Alaska

The Commission may, in its discretion, conduct additional meetings concerning this matter. Notice of any additional meetings will be provided to the greatest extent practicable. Individuals wishing to receive notice of such meetings should write or telephone the following individual (collect calls will be accepted):

Linda Sandison
Municipal and Regional Assistance
Department of Community and Regional Affairs
949 East 36th Avenue
Anchorage, Alaska 99508
Telephone: (907) 561-8586

If, for any reason, (e.g. transportation delays, telephonic communication equipment malfunction, inadequate meeting room capacity, etc.), the Local Boundary Commission is unable to conduct a hearing/meeting at the time and/or place specified in this notice, the hearing/meeting will be delayed until later that day or will be rescheduled to a new date, as early as is practicable. Notice of such delay or rescheduling will be formally provided at the time and location of the hearing/meeting as originally scheduled.

The Commission may, in its discretion, consider matters other than those referenced above.

For further information or a copy of the meeting agenda, contact Gene Kane, Staff Assistant to the Local Boundary Commission, at the telephone number or address listed above (collect calls will be accepted).

Yonnie

STATE OF ALASKA
LOCAL BOUNDARY COMMISSION

Rec'd 1/16/86

SUMMARY OF ACTION
FINDINGS OF FACT
STATEMENT OF DECISION

IN THE MATTER OF THE DISSOLUTION)
OF THE CITY OF AKIACHAK,)
ALASKA, A CITY OF THE SECOND)
CLASS:)
_____)

SUMMARY OF PROPOSED ACTION

Sixty-two individuals registered to vote in Akiachak petitioned for dissolution of the community's second class city government, pursuant to Section 29.68.500-580 of the Alaska Statutes.

The City of Akiachak has a recorded population of 451 (according to 1985 state revenue sharing records) and municipal boundaries encompassing approximately 12 square miles.

The Commission conducted a hearing on the petition at the Akiachak Contract School on March 2, 1985. The Commission held a decisional session on the petition in Anchorage on May 18, 1985. Members of the Commission participating in the May 18 decisional session were Chairman Gillian Smythe, Bert Greist, Charles Bettisworth and Josephine Anderson. At the May 18 meeting, the Commission voted to reject the petition for dissolution. On August 2, 1985, the Commission agreed to reconsider its denial of the petition at the request of the petitioners' representative.

Accordingly, the Commission met on November 9, 1985, and again examined whether the petition conformed to the standards for municipal dissolution. Members of the Commission participating in the reconsideration were Chairman Robert Eder, Bert Greist, Charles Bettisworth and Dave Hanson.

FINDINGS OF FACT

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

I. THE PETITIONERS HAVE ADEQUATELY DEMONSTRATED THAT THE CITY IS FREE OF DEBT OR THAT THE CITY HAS SATISFIED EACH OF ITS CREDITORS AS REQUIRED BY SECTION 29.68.520 (1) OF THE ALASKA STATUTES.

In making this determination, the Commission is charged with ascertaining whether the City is free of debt, or if in debt, whether each of its creditors are satisfied with a method of repayment. A city may not be legally dissolved unless it is free of bonded or other indebtedness, or else has a plan to repay its creditors which has been approved by the creditors.

On the basis of information provided to the Commission by representatives of the petitioners for dissolution of the City of Akiachak, the Commission is satisfied that the City of Akiachak's debts have been adequately identified. Good faith efforts had been made to identify and satisfy all known obligations. Obligations (including a debt to the Internal Revenue Service) had been met. The Department of

Community and Regional Affairs had previously recommended in its report to the Local Boundary Commission that a complete financial audit be conducted of the assets and liabilities of the City of Akiachak. However, due to the unavailability of funds, the recommended audit was not undertaken, but the Department informed the Commission that it had received no indication that any outstanding municipal debts remained. It was the conclusion of the Commission that the responsibility for satisfaction of debts had been fulfilled by the petitioners for dissolution of the City of Akiachak.

Therefore, the Commission finds that this standard for dissolution of the City of Akiachak has been met.

II. THE CITY STILL MEETS THE MINIMUM STANDARDS PRESCRIBED FOR CORPORATION.

In making this determination, the Commission is charged with considering whether the community still has the human and financial resources necessary to provide local services, whether the population of the community is stable enough to support local government, whether there is a demonstrated need for local government and whether the boundaries of the City include all areas necessary to provide municipal services on an efficient scale.

Documents had been submitted to the Department of Community and Regional Affairs indicating that funds had been received and expended by the City of Akiachak for the purpose of providing municipal services during the most recent two year period.

No reference was given nor specific indication made in any testimony provided to the Commission that the community had suffered any significant population decrease or that the population of the community was not stable enough to support local government. Nor was it demonstrated that the community lacked the financial or human resources necessary to support local government. Further, it was determined that there is a continued need for the provision of basic municipal types of local government services in Akiachak.

While it has been amply demonstrated that dissolution of the City of Akiachak and the vesting of all local government powers in the local IRA Council is strongly desired by the petitioners, there are numerous communities in Alaska which enjoy the benefits of both IRA Councils and municipal governments. It has not been adequately demonstrated that the existence of an active IRA Council in the community is necessarily incompatible with the existence of a functioning municipal government in the community. The Commission determined that it has also not been demonstrated that the potential ramifications of municipal dissolution on the provision of basic municipal services to all Akiachak residents, both present and future, were adequately considered by the petitioners.

In summary, the Commission determined that while an argument may be made that the City of Akiachak may have technically failed to fully function as a municipal government in the recent past, the community of Akiachak still clearly meets the minimum standards for municipal incorporation set forth in Section 29.18.011 of the Alaska Statutes.

In its deliberations, the Commission noted that several issues were raised in the course of its consideration of the petition to dissolve the City of Akiachak. The Commission determined that these issues merit review by the Alaska Legislature, and expressed an intent to request guidance from the Second Session of the Fourteenth Legislature. The issues raised include the following:

- A. That a need for review of statutes governing dissolution of Alaska municipal governments exists. The goal of the suggested review would be to more clearly identify the circumstances in which a municipal government may be dissolved when dissolution is desired by its residents but when the community continues to conform to the minimum standards for municipal incorporation.
- B. That a summary of the issues, and Commission proceedings, be forwarded to the Governor with the recommendation that the following questions be addressed through administrative and legislative processes:
1. Other than those circumstances provided by statute and regulation, are there other circumstances when dissolution of a municipal government may be termed appropriate?
 2. What, if any, statutory and/or regulatory standards and procedures should be established to dissolve a municipal government when dissolution of the government is desired by residents of a community which otherwise meets the standards for municipal incorporation?
 3. Shall the IRA local tribal council form of government be recognized as a part of the state system of government?
 4. If so, what procedures must be established to implement this recognition?

STATEMENT OF DECISION

The Commission decides as follows:

Chairman Eder, Member Charles Bettisworth and Member Dave Hanson voted to deny the petition after reconsideration. Member Bert Greist voted to accept the petition. Since three negative votes were cast to reject the petition, the petition was rejected.

That the petition for dissolution of the City of Akiachak as a city of the second class fails to satisfy requirements of Section 29.68.520(a)(2) of the Alaska Statutes. Specifically, the community continues to meet the minimum standards for municipal incorporation and the City of Akiachak has not ceased to use each and every one of its mandatory powers.

That the petition for the dissolution of the City of Akiachak is rejected on the basis of the determinations by the Local Boundary Commission stated herein.

APPROVED December 31, 1985.

BY:

Robert O Eder

Robert Eder, Chairman

Dave Hanson

Dave Hanson, Member

Bert Greist

Bert Greist, Member

Charles Bettisworth

Charles Bettisworth, Member

Presentation by Sen. Vic Fischer to
Local Boundary Commission
11/9/85

BOROUGH GOVERNMENT IN ALASKA

A Study of State-Local Relations

by

Thomas A. Morehouse
and
Victor Fischer



Institute of Social, Economic and Government Research

University of Alaska
College, Alaska 99701

ISEGR Report No. 29

March 1971

Price: \$5.00

legislature could reserve to itself authority over education generally or school financing in particular, and then grant it directly to local school authorities. This issue was not pursued, however, due to its obvious conflict with the borough provisions then already accepted.

State Organization and Role

The lack of any general government beyond the city; a tradition of territorial responsibility for services beyond incorporated communities; the varying levels of local government capability and of the requirements for local services throughout Alaska; and, finally, the realization that further detailed study and planning was necessary to establish a new governmental system—these factors militated strongly in the direction of continuing state responsibility for local affairs. In short the Constitutional Convention viewed the role of the state as critical in making the local governmental system work. Here, as elsewhere in its local government deliberations, the convention left much to be determined later in the state legislative and administrative process.

In addition to dealing with local government organization, Article X includes the following provisions for state authority and responsibility:

—responsibility is vested in the legislature for establishing procedures and standards under which boroughs will be created and classified;⁴⁴

—the legislature is established as the governing body for unorganized boroughs and has responsibility for provision of services in such boroughs;⁴⁵

⁴⁴*Constitution*, Article X, Section 3.

⁴⁵*Constitution*, Article X, Section 6.

—a state-level local boundary commission is given responsibility for changes in local government boundaries;⁴⁶

—an executive agency is established in state government to deal with local affairs;⁴⁷ and

—authorization is granted for joint exercise of powers by local governments and the state.⁴⁸

In providing for—indeed, in mandating—a major role for the state in local affairs, the Alaska constitution was taking a lead position nationally in the intergovernmental field. The concept of the boundary commission has still not been replicated in similar scope elsewhere and probably cannot be due to the frozen structures of county government and the near permanency of existing municipal boundaries in most states. Only in recent years have states created instrumentalities with some jurisdiction over annexation and incorporation. Similarly, the provision for a top-level local affairs agency preceded by several years the recent movement to create such agencies in other states.⁴⁹

Local Boundary Commission

The Local Government Committee and the convention concluded that establishment and revision of local government boundaries should be primarily a state responsibility. Several considerations led to this conclusion: first, the delineation of boroughs required a statewide analysis of pertinent considerations; second, the state had a direct interest, since the borough was

⁴⁶*Constitution*, Article X, Section 12.

⁴⁷*Constitution*, Article X, Section 14.

⁴⁸*Constitution*, Article X, Section 13.

⁴⁹See Appendix F for brief descriptions of local affairs and related agencies in the United States at the end of 1968.

to serve not only as a local government but also as a unit for the provision of state services; third, it was generally believed that an objective analysis of relationships between adjacent local units could only be made at a higher level; and fourth was the belief that strictly local political decisions do not usually create proper boundaries.⁵⁰ Because similar considerations applied, city boundaries were also included under the jurisdiction of a boundary commission or board to be established in the executive branch of the state government. Boundary changes under this system could be made by the commission upon petition or on its own initiative.⁵¹

Convention delegates from the beginning considered it appropriate that boundary changes proposed by the commission be subject to legislative veto. In addition, there was some feeling on the part of the Local Government Committee "that the citizens of a local unit should have some check upon any proposed revision."⁵² The issue was again raised on the convention floor,⁵³ but no requirement for a referendum was included in the constitution.

Initially, the Local Government Committee draft article stipulated that proposed changes be submitted to the legislature during the first ten days of any session and that they would "become effective at the end of the session unless disapproved by a resolution concurred in by a majority of all members of each house."⁵⁴ Subsequently, it was further provided that a change would be "effective forty-five days after presentation or at the end of the session, whichever is earlier . . ."⁵⁵ This amendment was adopted so that acceptable changes would not be unnecessarily delayed because of prolonged legislative sessions.

⁵⁰Minutes, 18th Meeting; *General Discussion*, pp. 6-7.

⁵¹Minutes, 19th Meeting; *General Discussion*, p. 6.

⁵²Minutes, 18th Meeting.

⁵³Proceedings, pp. 2667, 2752.

⁵⁴Committee Proposal/6/a.

⁵⁵Constitution, Article X, Section 12.

While the legislature is thus given the veto power over boundary revisions and is also required to prescribe standards and methods for establishment of boroughs, the constitution does not grant it authority over Boundary Commission activities⁵⁶ or over the manner in which boundary changes are effected. The Boundary Commission in addition has the authority, subject to law, to "establish procedures whereby boundaries may be adjusted by local action."⁵⁷

The Local Government Agency

The prominence that the convention gave to the state role in local affairs is evidenced by the fact that the "local government agency" is the only administrative agency specifically required under the constitution. Delegates generally subscribed to the principle that, unless a grave need existed, no agency, department, commission, or other body be specified in the constitution. As one delegate stated in regard to the local government agency, "Unless there is some very, very compelling reasons given for including such an agency as proposed in Section 14 in the constitution, I think we're violating the principles and policies we've already adopted here."⁵⁸ However, in view of the general belief that success of the local government plan was dependent upon existence of an effective agency at the state level, provision for a mandatory agency was included in the constitution.

Thus, Section 14 of Article X, establishing the local government agency, provides:

⁵⁶*Proceedings*, p. 2750.

⁵⁷*Constitution*, Article X, Section 12. It would appear questionable, therefore, whether the legislature has any direct or implied constitutional power to authorize annexation or other boundary changes by local action, since this power rests in the boundary commission.

⁵⁸*Proceedings*, p. 2670.

Local Boundary Commission
Sat - 5:00 p.m. - November 9, 1985.

Vic Fischer - State has been delinquent in carrying out its responsibilities under the Constitution
State is responsible for Borough government
Commission

Charles Edwardson

Comm has become a corporate entity of the Governor to make political decisions.

Boro went to Court and our boundaries were established by Court

I was the petitioner that helped create our boundary - I have a vested interest in that boundary -

Hanson ~~bettsworth?~~ made clear to everybody - we start from a position of complete neutrality

Earl Finkler - North Slope Boro Planning Comm.

Chairman - Petition will be arriving in mid November

(6 people from North Slope Boro were present)

Weber - Attorney for Boro

Do not question integrity of B Commission

C&RA C. Regulations changes request
Regs changed 20th
petition submitted on 22nd

N.S. Boro Requested additional public hearings

Attorney - do not feel appropriate for Dept of C&RA
to file petition and then the staff of DC&RA
set up all hearings and arrangements for
consideration of the petition -
shud hire an independent attorney

Rutherford asked to prepare petition by
Commissioners, plans to submit petition
on Nov 22 -

petition for detachment is legal
"if he should file it"

North Slope Boro has filed TRO against Dept of C&RA
information - 61 by the Dept to the Boro on Nov 6th

Weber support formation of Nana Boro - but do not
support the method being used by Comm of C&RA
to change boro boundaries

(Dave Hanson, Cont.)

Ed Bush - Manauluk - will have petition for Boro To C&RA in early Dec

Bob Hicks preparing new regulations for local Bndry Contor

Is it legal to have someone else review the petition? Rutherford
Shiela Gallagher review or Bob Hicks

MEMORANDUM

State of Alaska

Community & Regional Affairs


TO: Local Boundary Commission

DATE: November 4, 1985

FILE NO: 0268L

TELEPHONE NO: (907)561-8586

FROM:


Mark W. Rutherford
Director
Municipal and Regional
Assistance Division

SUBJECT: Brief in support
of petition for
dissolution of the
City of Akiachak

The enclosed briefs were received by the Department on October 18 and October 31, respectively. These briefs have been submitted by the petitioners' attorney at this time in order to enable you to consider the information they contain prior to the hearing on the petition for dissolution of the City of Akiachak scheduled for for 5:00 p.m., November 9, at the Community and Regional Affairs conference room in Anchorage.

The October 31 supplemental brief states, in relevant part, that:

"Petitioners' attorney submitted a memorandum to the Local Boundary Commission on October 17, 1985 demonstrating that the City of Akiachak is free of debt. Local Boundary Commission staff have reviewed this memorandum and concur with Petitioners' conclusion."

The Department disputes this contention since the Department's analysis of the referenced memorandum is contained in this memorandum. DCRA staff had not concluded its review of the October 17 memorandum when the October 31 brief was submitted. It was therefore premature and speculative to contend that Department staff concurred with the petitioners' conclusion.

The October 18 brief contends that by virtue of demonstrating satisfaction of municipal debts, all standards for dissolution of the City of Akiachak have been met, pursuant to AS 29.68.520(a). A notarized affidavit signed by Charles K. James contains a certification that following payment of outstanding debts, \$29,931.41 remains in "Akiachak's" checking account(s).

In determining whether standards for dissolution are met, the Commission is charged with ascertaining whether the City is free of debt, or if in debt, each of its creditors are satisfied with a method of repayment. A city may not be legally dissolved unless it is free of bonded or other indebtedness, or else has a plan to protect the interest of its creditors which has been approved by the creditors.

The Commission's May 31 statement of decision rejecting the petition contains the following statement.

"On the basis of testimony heard by the Commission at the Akiachak hearing and other submissions, it is highly questionable whether the total amount of the City of Akiachak's debt has been identified. It appeared that certain efforts were being made to identify and satisfy certain obligations, such as the debt to the Internal

Revenue Service, but uncertainty remained concerning the size and legitimacy of this obligation. The Department of Community and Regional Affairs had recommended in its report to the Local Boundary Commission that a complete financial audit be conducted of the assets and liabilities of the City of Akiachak. In addition, the petitioners had stated at the March 2 hearing that formal permission to access Internal Revenue Service records regarding the City of Akiachak would be provided to the Department of Community and Regional Affairs and the Commission. A 45 day period was made available for the petitioners to undertake a financial review and to conduct further work on clarifying the City of Akiachak's financial status. At the time of the decisional session, neither a financial audit nor the permission to access Internal Revenue Service records had been forthcoming. The burden of proof is upon the petitioner to demonstrate that standards are met. It was the conclusion of the commission that this responsibility had not been fulfilled by the petitioners for dissolution of the City of Akiachak.

Therefore, the Commission finds that this standard has not been met."

The Commission also determined that the petitioners failed to demonstrate that Akiachak no longer meets the standards for municipal incorporation. The statement of decision explained the Commission's rationale as follows:

"In making this determination, the Commission is charged with considering such activities as whether municipal elections have been held in the manner provided by law, whether the community still has the human and financial resources necessary to provide local services, whether the population of the community is stable enough to support local government and whether there is a demonstrated need for local government.

Official documents had been submitted to the Department of Community and Regional Affairs indicating that funds had been received and expended by the City of Akiachak for the purpose of providing municipal services during the most recent two years.

No reference and no indication was made in any testimony provided to the Commission that the community had suffered any radical population decrease or that the population of the community was not stable enough to support local government. Nor was it demonstrated that the community lacked the financial resources to support local government. Further, it was agreed that there was a need for local government services in Akiachak.

In summary, the Commission determined that while the City of Akiachak has ceased to function as a municipal government, Akiachak still meets the minimum standards for municipal incorporation."

When you reconsider whether the petitioners have demonstrated satisfaction of municipal debts, you may wish to also reconsider whether the community still meets minimum incorporation standards.

RECOMMENDATION

If the Commission approves the petition for dissolution of the City of Akiachak, the Department recommends that the Commission stipulate that such approval not take effect until a formal agreement between DCRA and the City of Akiachak has been executed to identify and develop a formal transition mechanism with respect to the assets of the City.

Local Boundary Commission
November 4, 1985
Page 4

The attached list is a compilation of known debts of the City of Akiachak (as of 11/1/85). Information concerning these debts was supplied by the petitioners. Those creditors randomly contacted by the Department in recent weeks (White's R&J Services, Erickson's Insurance, United Utilities) have indicated that the city's obligations to them have been satisfied. The contested Internal Revenue Service billing has also been settled, according to a document submitted on behalf of the petitioners.

The Department is not presently aware of any other outstanding debts of the City of Akiachak.

If you have any questions or comments regarding this matter, please contact me.

cc: Jeff Smith
Marty Rutherford
Dan Bockhorst/Gene Kane
Irene Rowan
Ken Hamm

4th floor May - Comm J, S
delayed twice
949 E 36th
5:00 p.m.

NORTH POLE ANNEXATION PUBLIC HEARING
RECONSIDERATION OF DENIAL OF PETITION FOR DISSOLUTION
OF CITY OF AKIACHAK

Notice is hereby given that a hearing of the Alaska Local Boundary Commission will be held at 7:00 p.m., October 26, 1985, on the proposed annexation of territory to the City of North Pole. Following consideration of and possible action on the North Pole annexation petition, the Commission will reconsider its earlier denial of the petition for the dissolution of the City of Akiachak.

The hearing and reconsideration will be held at the following location:

North Pole City Hall
Council Chambers
North Pole, Alaska

In addition, teleconference facilities will be established in Anchorage to permit certain members of the Commission and other interested parties who are unable to travel to North Pole to participate in these proceedings. The teleconference facilities will be established at the following location:

Division of Municipal and Regional Assistance
Department of Community and Regional Affairs
949 East 36th Avenue, Suite 404 (Conference Room)
Anchorage, Alaska 99508

The following three generally described areas, comprising a total of approximately 1.14 square miles, are proposed for annexation to the City of North Pole (refer to City's petition for details):

- Area 1 - An area adjacent to the northwest corner of the current City boundaries, located within Sections 4, 5 and 6, T2S, R2E, Fairbanks Meridian;
- Area 2 - an area east of the intersection of the Richardson Highway and Badger Road, including the area known as the Morning Star Subdivision and properties owned by the Interior Energy Corporation north of the Morning Star Subdivision;
- Area 3 - an area to the south of the current City boundaries, containing the Petro Star, Inc., refinery.

Following its hearing, the Commission may reach a decision on the petition for annexation of territory to the City of North Pole. The Commission may take any one of the three following actions in this regard:

- 1. reject the petition;
- 2. amend the boundaries of the territory proposed for annexation and approve the petition, or;
- 3. approve the petition as submitted.

Decisions of the Commission may be appealed.

Individuals wishing to review the petition and supporting documents concerning either the proposed annexation to North Pole or the proposed dissolution of the City of Akiachak prior to the meeting should contact the individual listed below:

Gene Kane
Division of Municipal and Regional Assistance
Department of Community and Regional Affairs
949 East 36th Avenue, Suite 401
Anchorage, Alaska 99508
(Telephone 561-8586)

If, for any reason, (e.g. weather conditions, communications difficulties, transportation delays, inadequate meeting room capacity, etc.), the Local Boundary Commission is unable to conduct the hearing at the time and/or place specified in this notice, the hearing will be delayed until later that evening or will be rescheduled to a new time, as early as is practicable. Notice of such delay or rescheduling will be formally posted by the time and at the location of the hearing as originally scheduled.

The Commission may conduct other business during its meeting on October 26. For further information or a copy of the meeting agenda, contact Gene Kane at the address or telephone number listed above.

BILL SHEFFIELD, GOVERNOR

Dept. of Community & Regional Affairs

OFFICE OF THE COMMISSIONER

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

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

REPORT AND RECOMMENDATION TO THE ALASKA LOCAL BOUNDARY COMMISSION ON THE PETITION BY THE CITY OF UNALASKA FOR THE ANNEXATION OF A PORTION OF UNALASKA ISLAND, AMAKNAK ISLAND, HOG ISLAND, EGG ISLAND, SEDANKA ISLAND AND THE TERRITORY THREE NAUTICAL MILES SEAWARD OF THESE ISLANDS.



SEPTEMBER, 1985

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I. PREFACE

Petitions for annexation of territory to municipalities are processed under the provisions of State laws and administrative regulations. The Alaska Local Boundary Commission reviews and acts on petitions for annexations such as the one submitted by the City of Unalaska in accordance with Section 29.68.010 of the Alaska Statutes (AS 29.68.010) and Title 19, Chapter 10, Sections 065-080 and 450-620 of the Alaska Administrative Code (19 AAC 10.065-080 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 from the state at large. Commission members serve without compensation at the pleasure of the Governor.

The current members of the Local Boundary Commission are:

Robert D. Eder, Chairperson, 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);

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 Municipal and Regional Assistance Division is Ms. Marty Kutnerford.

State regulations (19 AAC 10.520 and 19 AAC 10.570) require the Department of Community and Regional Affairs to review proposals for annexation such as the one submitted by the City of Unalaska 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 annexation of Unalaska Island north of Township 76, Hog Island, Egg Island, Amaknak Island, Sedanka Island and the territory which lies three nautical miles seaward from these islands.

11. INTRODUCTION/EXECUTIVE SUMMARY

The City of Unalaska has petitioned the State of Alaska for the annexation of all those lands on Unalaska Island north of Township 76 and the islands of Sedanka, Hog, Egg and Amaknak, including the territory three nautical miles seaward from these islands. The total area of the territory proposed for annexation is approximately 1,294 square miles- approximately 60% is land and 40% is water. Exhibit A is a map illustrating the territory proposed for annexation.

BASIS FOR REQUEST

In its petition for annexation, the City of Unalaska has presented several reasons for the request:

1. To control land use and development through planning on a regional basis.
2. To tap revenues from fish processors ("floaters") and oil rigs in Unalaska and Iliuliuk Bays.
3. To provide municipal services cost effectively to those areas most likely to develop in the near future.

COMMUNITY PROFILE - UNALASKA

POPULATION	1,922 (1985 State Revenue Sharing Figures)
CITY	Airport, boat harbor, dock,
SERVICES	electrical utility, water utility, sewer utility, sanitary landfill, road maintenance, recreation, police, fire protection, emergency medical services, civil defense, education and planning
COMMUNITY FACILITIES	Community health clinic, telephone utility, private commercial and industrial facilities
SCHOOLS	Primary and secondary schools
TRANSPORTATION SYSTEMS	Air (Keeve Aleutian Airways, Air Pacific, Mark Air and others), Alaska Marine Highway (ferries 5 times per year)
MAJOR EMPLOYMENT	Government, fishing, fish processing and the trans-shipment of cargo

III. BACKGROUND

A. General Description of the Community:

The City of Unalaska is located on Unalaska and Amaknak Islands, in the northern part of the Aleutian Islands. The City is approximately 800 air miles southwest of Anchorage (2 hours by jet). Unalaska is the economic center of the Aleutian Islands. Dutch Harbor, the only deepwater port west of Kodiak, is within the corporate limits of the City. Unalaska is the base for crabbing and bottom fishing fleets, salmon fishing and oil exploration activities. Related industries have developed to support the fishing and shipping activities. Dutch Harbor, the center of the community's fishing, fish processing and trans-shipment industries, is located across Iliuliuk Bay on Amaknak Island. A bridge links Amaknak and Unalaska Islands.

The City of Unalaska was incorporated as a first class city on March 3, 1942. The City expanded its boundaries in 1967 through an annexation approved by the Local Boundary Commission and the State Legislature. The City is not within an organized borough. Presently, the City has a council/manager form of government.

B. Socio-Economic Setting

(1) Population

The Department of Community and Regional Affairs has certified the year-round population of the City of Unalaska to be 1,922 (1985 population figures used to determine State Shared Revenue). However, Unalaska experiences seasonal population and employment fluctuations commonly associated with communities having a fishery based economy. The City estimates that the population doubles during the height of the fishing season (phone contact 9-18-85 with City Planning Director).

(2) Economic Base

Commercial fishing and associated seafood processing activities are the backbone of Unalaska's economy. Unalaska has been one of the largest, in terms of dollar value, fish harvesting and processing centers in the United States. According to the St. George Basin Lease Sale 80, Environmental Impact Statement, (Minerals Management Services, April, 1985) several of the shore-based plants operate floating processors or have contractual agreements with operators of floating processors ("floaters"). There are seven large floating processors capable of processing more than 2.5 million pounds of product per day that have in the past operated in the vicinity of Unalaska Island (data compiled from City Planning Director contacts with ADFG and local residents). However, according to ADFG, only three of these processors are presently operating.

Most of the bottom fish processors, according to the Dutch Harbor office of the Alaska Department of Fish and Game (contact: August 12, 1985) are offshore processors located primarily in Unalaska Bay, Captains Bay, Makushin Bay, and Beaver Inlet- all of which are included in the annexation request by the City. Other processors locate in Chernofski Harbor (located on the southwest corner of Unalaska Island) and between January and April these processors move to Akutan Bay and Lost Harbor. Crab floating processors are primarily found in Unalaska Bay.

(3) Land Base for Growth

There are a total of 16,300 acres of land and water in the current municipal boundaries (25.4 square miles) or 10,300 acres of land plus 6,000 acres of water (Tryck, Nyman and Hayes, Recommended Land Use Plan, 1977- confirmed by the City of Unalaska Planning Director, September 6, 1985). Approximately 8,400 acres are considered "undevelopable" due to steep slope and/or flood hazard. Of the 1,900 acres suitable for development, 400 are already developed. There are approximately 1,275 acres remaining that are suitable for residential development and capable of accommodating not only the existing population but a projected capacity population of 30,800-32,700, assuming that the bottom fishing industry growth rate increases dramatically and, as a result, the land is developed to the fullest extent possible (Dames and Moore, Aleutian Regional Airport Project Document, February 1982). This includes the townsite, Unalaska Valley and Pyramid Creek Valley. The remaining acreage, amounting to approximately 225 acres, is sufficient to accommodate both industrial and commercial uses. In summary, the existing land base is sufficient to accommodate even the most liberal population growth projections.

C. Proceedings to Date

Upon receipt of the petition and supporting documentation, the Department of Community and Regional Affairs formally determined the material to be sufficient as to form and content. The City subsequently provided public notice of the filing of the petition in accordance with State administrative regulations by posting notice in the three public and/or prominent locations within the community and also in both the Aleutian Eagle and Anchorage Daily News. On August 27, 1985, the Department staff held an informational meeting in Unalaska. Fifteen citizens attended, including a representative from the Unalaska Corporation. Notice of the informational meeting was published in two consecutive issues of the Aleutian Eagle and the Anchorage Daily News.

IV. APPLICATION OF STANDARDS

19 AAC 10.065-080 provides nine standards to be used in judging the merits of a proposal for the annexation of contiguous territory to a city. This section of the report lists each of these standards (stated in bold capital letters), followed immediately by the Department's analysis of the extent to which each standard is met with respect to the petition by the City of Unalaska for the annexation of territory. It should be noted that all nine standards need not be met. The Local Boundary Commission could determine the annexation is meritorious if only one standard is met. The LBC may approve a presentation for annexation as presented, may reject it or may modify proposed boundaries and approve it.

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

The current boundaries of the City do not surround the territory proposed for annexation in that all of the area proposed for annexation lies outside the City's boundaries.

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

None of the territory proposed for annexation is owned by the City. The vast majority of the territory proposed for annexation is owned by regional and village Native Corporations created pursuant to the Alaska Native Claims Settlement Act. Exhibit B is a land status map of the territory proposed for annexation.

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: (1) whether the property is platted or held for sale for residential or commercial purposes; (2) whether the population density of the territory approximates that of the annexing city; (3) whether the population of the territory stems primarily from actual growth of the city beyond its legal boundaries, and; (4) whether the property is valuable primarily by reason of its suitability for prospective urban purposes.

(1) Most of the territory to be annexed is not platted or held for sale for residential or commercial purposes. The territory proposed for annexation is vast and remote and is largely undeveloped. At present, the major landowners- the regional and village Native corporations- have not received patent for the land from the Federal government. The Aleut Regional Corporation is due to receive patent for a 7,000 acre parcel in the Makushin mountain area this September. However, the regional and village Native corporations have received interim conveyance for their lands outside the present City limits.

(2) The population density of the territory does not approximate that of the annexing city. The City's petition indicates that four individuals reside within the 1,294 square miles proposed for annexation. The population density of the territory proposed for annexation is 0.0031 people per square mile. By comparison, 1,922 individuals reside inside the boundaries of the City of Unalaska (which encompass approximately 25.4 square miles). The population density within the City is 75.7 persons per square mile.

(3) The population of the territory does not stem primarily from actual growth of the city beyond its legal boundaries. This is due, in part, to the difficulty in developing the lands outside the major river valleys and flatter bay areas; plus, the territory to be annexed is in the hands of the Village Native corporation (see Exhibit B) and is not platted and available for purchase. As stated in the community overview, most of the island contains very steep slopes. Within the present City boundaries, approximately 81% of the land available for development (available for purchase or lease) is considered "undevelopable" due to steep slopes and/or flood hazard.

(4) Portions of the territory to be annexed may be valuable by reason of its suitability for prospective urban purposes. Specifically, the land areas around Broad Bay, Wide Bay, Nateekin Bay, the Makushin Valley, and Summers Bay may be suitable for additional rural/low density residential development. In addition, Captains Bay presently harbors processors and oil rigs. It is likely that this activity will continue and even increase in the future. The 1977 Land Use Plan (recommended, not adopted) also identifies these areas as suitable for future residential development (Tryck, Nyman, Hayes 1977).

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

The City of Unalaska provides the following municipal services: airport terminal facilities, boat harbor, dock, education, electricity, police, recreation, road maintenance, sanitary landfill, emergency medical services, civil defense, water, and a community sewer system (under construction with completion expected June, 1986). Quasi-governmental services include a volunteer fire department and volunteer ambulance service. Garbage collection and disposal are provided by a private firm, Williwaw Services, Inc., through a contract with the City (See petition for additional detail on services). The City also provides a picnicking area at Summers Bay with road maintenance to the area. This area is owned by the Unalashka Corporation and is outside the City limits. In addition to these services, the City provides for planning and zoning within the City limits.

The petitioner acknowledges in its brief that, "The City of Unalaska does not routinely provide services outside its corporate limits." However, in 1984 the City ambulance responded to 56 marine calls. So far in 1985, the City ambulance has responded to 46 marine calls (statistics provided by the City Emergency Services Director, August 27, 1985). According to the Emergency Medical Services Director the majority of these calls were to vessels moored in nearby bays that are outside the City limits. The City normally responds to marine calls by transporting rescue and emergency medical equipment to the harbor tug so City personnel can perform rescue/emergency/fire operations. Much of the demand on the City ambulance and fire services is from the offshore processors located in Captains Bay and parts of Unalaska Bay.

City services, other than those emergency services described above, are not presently provided in the territory proposed for annexation, nor is there any indication that such services are either needed or desired by individuals residing within the territory. Nor is the City legally responsible for providing services to the territory. Public testimony at the informational meeting held August 27 indicated that several residents outside the City prefer not to receive City services such as sewer, water and garbage collection. Plus, several residents and a representative of the village Native corporation expressed concern with the City's ability to provide municipal services to much of the territory proposed for annexation due to its inaccessibility. Other residents from outside the City and a representative from the Unalaska Corporation also expressed concern regarding the extension of planning and zoning authority over such a remote territory.

Evidence indicates that it is reasonable to expect the City may be called upon to provide emergency services such as fire, ambulance and police to both oil rigs and "floaters" moored in the bays and harbor located in the immediate vicinity of the City yet outside the present City limits.

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.

There are three major issues that must be discussed when applying this standard to the petition: (1) private or public development that warrants municipal planning authority in the territory; (2) land status of the territory as it either promotes development or is a barrier to development; (3) alternative mechanisms that achieve the same goals as traditional planning and zoning and the effectiveness of those alternatives.

(1) Private or public development that warrants planning authority in the territory: The City states that the petition for annexation is, "motivated by the need to promote and control land use and development through a planning authority effective throughout the region." The City argues that anticipated growth in both the bottom fishing industry and the community's role in providing logistical support for present and future offshore oil exploration and development activities warrants the extension of the City's planning authority to the territory proposed for annexation.

The petitioner states in its brief that, "over the next several years, there will be a significant expansion of the bottom fishing industry in our area." According to the City of Unalaska's Planning Director (September 4, 1985), Universal Seafoods (Unisea) has recently purchased the Pacific Pearl Corporation and plans on constructing a surimi plant by the end of this year.

However, according to agency forecasts and reports reviewed by the Department, the feasibility of a significant onshore bottom fishing industry in the area is, as yet, uncertain. There is now a surplus of such facilities within the present boundaries of the City of Unalaska due to the recent drastic decline in crab resources. The existing surplus of processing facilities should be able to absorb the future demands from onshore bottom fish development.

Virtually all indications from the fishing industry are that bottom fish development in the area is most likely to continue along the lines of increased at-sea (offshore) processing of bottom fish products. Any municipal authority over this type of activity will be limited to the bays and harbors where processors locate during the season. As stated in the community overview, processors are transient but locate primarily in Unalaska Bay, Iliuliuk Bay, and Captains Bay. It is reasonable to expect that the City of Unalaska would both want and need control over these bays as the processors impact water quality, require City services and use City facilities. However, it is uncertain if an increase in offshore processing activity will bring with it a commensurate increase in demand for City services other than emergency services. Offshore "floaters" can impact the community by bringing in large amounts of transients who in turn place a demand on both emergency medical and local law enforcement services. The Department believes that annexing the land area adjacent to Beaver Inlet and Makushin Bay merely to control processors in these waters is not justified under the guise of "planning authority" alone. (See additional discussion of planning options within this section).

The Department does, however, agree that Unalaska will likely play a role in the logistic support for future offshore oil exploration and development. However, activity related to that potential logistic support is most likely to occur within the existing boundaries of the City.

(2) Land Status: The present land status of the territory to be annexed may inhibit it from being developed immediately. The corporations have received interim conveyance with the exception of the 7,000 acre parcel the Aleut Corporation expects to receive patent for this September. In addition to the land status, the Ounalashka Corporation has indicated it has no immediate plans to open up land for development. Lands owned by the Ounalashka Corporation that are in the immediate vicinity of the existing City, however, would more likely be developed before the more remote areas if the corporation elects to develop. It is unlikely that these more remote areas will be requiring or demanding City services in the near future.

(3) Alternative Planning Mechanisms: The Alaska Coastal Management Program (ACMP) provides the City with an alternative means for planning and regulating land use within the territory proposed for annexation. Under the ACMP, districts are authorized to develop a coastal management program for their area of jurisdiction. Districts include first-class cities like the City of Unalaska and also "coastal resource service areas" or CRSA's.

A Coastal Resource Service Area (CRSA) is empowered to conduct coastal management planning in the region. The CRSA gives the regions planning authority for coastal management of the "coastal zone" and is not limited to one city or one district. The CRSA can use its coastal management plan to guide uses and activities that occur in the region. However, implementation of the CRSA coastal management plan is accomplished through State and Federal processes and permitting. Decisions are not made at the local level-although the City would have the ability to make recommendations and to interpret the plan at the local level.

The policies expressed in a district coastal management program are the enforceable rules and serve as standards for development. Once the district coastal management program is adopted locally and by the State and Federal governments, it is incorporated in the ACMP. These policies have the effect of State law. While these policies may not be as specific as provisions found in a typical municipal zoning ordinance, the policies are a form of land use regulation and can govern development in the region's coastal zone.

Located in the unorganized borough, CRSA's have boundaries similar to the Regional Education Attendance Areas (REAA) and operate like the REAA school boards. The territory within the boundaries of the Aleutian Region REAA #8, includes the City of Unalaska. In 1981, the REAA was divided into two areas for purposes of formally organizing CRSA's. The region east of Unimak Pass is designated as the Aleutians East CRSA and the region west of Unimak Pass (which includes Unalaska) is referred to as the Aleutians West. The Aleutians East CRSA has formally organized and is currently developing its coastal management program. That program will be considered for approval by the Alaska Coastal Policy Council this fall.

To date, the western Aleutian communities have not yet organized a CRSA. The City of Unalaska, like several other communities in the region, has the ability to petition a general election to organize the CRSA. In September 1981, the City of Unalaska passed a resolution requesting that the Alaska Coastal Policy Council conduct an election on the question of organization of the Aleutians West CRSA. The City, however, withdrew its request in mid-1982 before an election was scheduled.

However, the formation of an Aleutians West CRSA is not a dead issue. The Department is presently working with Unalaska and other western Aleutian communities to discuss CRSA formation. By late September, the Department should know if there is an interest in establishing the Aleutians West CRSA. In addition, Unalaska has requested funds to do a coastal management program for the City. The Department is holding grant funds available for this purpose pending the outcome of the Aleutians West CRSA organizing efforts.

The Department believes it is inappropriate for a city government to annex vast amounts of territory in which there exists no need or demand for municipal services, except for the possibility of extending planning authority.

The formation of the Aleutians West CRSA would provide an alternative planning mechanism for control of the regional impacts, such as offshore processors and/or oil development. It is agreed that the City may want to have more local control and enforcement over land use in the bay just outside the present City limits. This can be achieved by an annexation of much smaller scale (see recommendations and attached map depicting amended petition boundaries-Exhibit C).

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.

The petitioner has made no claim that the welfare or safety of residents of Unalaska is endangered by any current or prospective condition in the territory proposed for annexation. However, at the informational meeting on August 27, residents did testify to the need for control of dumping of bilge water and garbage in the bays around the City. The City at present has the authority to control this activity within its municipal limits. Several citizens testified at the August 27 informational meeting to the City's inability to enforce current ordinances within the existing boundaries, let alone over an expanded territory. It is reasonable to assume the City would want to control this activity in those bays just outside its jurisdiction, such as Captains Bay and Unalaska Bay.

It should be noted, with regards to extending emergency services, that the safety of residents inside the City is threatened when these are provided extraterritorily. The first priority of the City is to provide services to those residents legally entitled to receive them. The Coast Guard presently has jurisdiction over the waters in the outlying areas and provides the necessary emergency services.

The Department is not aware of any other conditions in the territory proposed for annexation, outside those bays mentioned above, that warrants concern with regard to the health and safety of Unalaska residents.

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 petitioner claims that the potential for the development of geothermal energy resources exists twelve miles west of Unalaska at the base of Mt. Makushin. This resource offers good prospects for development into a feasible utility that could supply Unalaska with a substantial portion of the community's power requirements (Reconnaissance Study of Energy Requirements and Alternatives, Appendix: Unalaska, Alaska Power Authority, April 1984). Development of this resource would require the creation of a transmission corridor between the source and the community core. It is likely that the City will play a role in the development of these energy resources, perhaps in the form of a utility enterprise.

However, it would not be necessary for the area containing the geothermal resources to be annexed in order for the City to participate in such development of the resources. Energy development such as this will be of State concern and will involve more than just the City of Unalaska. Although, under the new provisions of Title 29, the City will not be able to exercise the power of eminent domain to acquire the corridor necessary for the extension of the transmission lines; it will be to the advantage of both the regional and village corporations to develop a cooperative working agreement with the City. As profit making corporations, the development and sale of energy may be to the advantage of both the regional and village corporations.

Apart from the issue regarding geothermal energy development, the physical characteristics of the territory make it impractical for the City to extend facilities or services. The area is very steep and inaccessible. The likelihood of the City providing typical municipal services such as emergency medical, sewer, water and garbage is remote. The cost would be prohibitive and undoubtedly not the best use of City dollars.

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 stated earlier, the City has acknowledged that it does not routinely provide services on an extraterritorial basis. Considering that only four individuals reside within the vast territory proposed for annexation, it is not reasonable to conclude that these four individuals expect to receive City services. Further, it is doubtful that the City will be able to provide services to the four residents in the territory. Even though all cities generally have the function of providing an array of public services and facilities to the resident population of that city, there is a "threshold population" or minimum population size necessary to provide the demand that justifies that function. It is more likely that the City will provide services to areas just outside the present City limits such as Captains Bay, Broad Bay, Wide Bay, and the Makushin Valley. Although these areas may be restricted to emergency services at this time due to the cost of providing such other services as water, sewer, and roads.

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

The Department is not aware of any other public purpose to be accomplished through the annexation of this large amount of territory, nor has the petitioner provided evidence that indicates such a public purpose exists.

CONCLUSION

The City of Unalaska has petitioned the State of Alaska for the annexation of approximately 1,294 square miles of land and water. The territory is largely remote and undeveloped and has a population of only four individuals. Based on the preceding detailed analysis of the annexation proposal, the Department concludes that the annexation is not warranted in whole, but only in part.

The Department believes that only an area encompassing approximately 162.8 square miles can be justified for annexation. This territory includes that area generally described as Priest Rock, Princess Head, Split Top Mountain, Summers Bay, Captains Bay, Nateekin Bay, a portion of the Makushin Valley, Wide Bay, Broad Bay, a portion of Table Top Mountain and that area three nautical miles seaward from Priest Rock and Cape Cheerful.

RECOMMENDATION

Following its investigation and analysis of this proposed annexation, the Department recommends to the Local Boundary Commission that the petition be approved after the boundaries of the territory proposed for annexation be reduced to those shown and described in Exhibit C. The territory recommended for annexation encompasses an area of approximately 162.8 square miles.

This smaller area meets a substantial number of the regulatory standards governing annexation (particularly standards three, four, five and eight), whereas the remainder of the territory proposed for annexation does not. The extent to which these standards are met is summarized below:

STANDARD 3: A portion of the territory to be annexed may be valuable primarily by reason of its suitability for prospective urban purposes- specifically Broad Bay, Wide Bay, Summers Bay, the Makushin Valley. These areas may develop in an "urban" fashion similar to the Unalaska and Pyramid Creek Valleys.

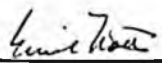
STANDARD 4: Only a portion of the territory proposed for annexation is likely either to demand or to receive City services in the near future. This area includes the bays mentioned in (1) above and should also include Unalaska Bay, Iliuliuk Bay, and Captains Bay. The City presently provides emergency services to vessels moored in these bays.

STANDARD 5: There is a reasonable likelihood that future growth and development will occur in the vicinity of Unalaska. However, the type of development and potential impacts are not sufficient to warrant the City exercising planning authority over the size of territory as petitioned. It is reasonable to assume the City should want and need to have planning authority over a more limited area, namely those bays and harbors that

are in the immediate vicinity of Unalaska, such as Captains Bay, all of Unalaska Bay, Iliuliuk Bay, Broad Bay, Wide Bay and out to the three-mile limit. The offshore fish processors and oil rigs which moor in these harbors, impact water quality and require City services. It is also reasonable to assume that the City should want to receive compensation, i.e. tax revenues, from the fish processors and oil rigs moored in these bays. Directing these revenues to the local government entity increases that jurisdiction's economic viability. Should the City wish to ensure that planning occurs on a more regional basis, the Department believes the City should work towards the formal creation of the Aleutians West Coastal Resource Service Area. The creation of that entity will provide the means to plan and establish policies regulating development not only in the area proposed for annexation, but also on a regional scale.

STANDARD 8: The Department acknowledges the fact that the City may be called upon to provide some City services outside its present limits but disagrees as to the extent these services will be in demand. Considering that only four individuals reside within the territory proposed for annexation, it is not reasonable to conclude that these four expect to receive City services. Plus, the City does not have responsibility to respond to emergency situations in the territory now. It is also questionable as to the City's ability to provide services to this remote area. The costs to both the public and private sectors because of the distance to which urban services, facilities and utilities would have to be extended is prohibitive, even considering the revenues to be gained by the fish tax. Plus, the possibilities for tax inequities exists where the entire taxing jurisdiction would bear the cost of providing for the needs of the outlying area (in other words- subsidized delivery of services to the outlying area). However, it is not unreasonable to conclude that the City will need to provide some services to those areas in the immediate vicinity (see adjusted annexation boundaries).

For informational purposes, maps depicting both the boundaries of the territory proposed for annexation, land status, and the Department's recommended adjusted boundaries are attached to this report as Exhibits A, B, and C.



Emil Notti, Commissioner
Department of Community and Regional
Affairs

Date: 9/25/85

4

EXHIBITS

Exhibit A Petition Map Depicting Requested Corporate Boundary

Exhibit B Land Status Map

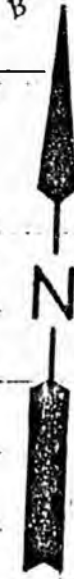
Exhibit C Department Recommended Corporate Boundary

REFERENCES

- 1) Aleutians East Coastal Management Plan, Conceptual Approval, DCRA, July 1985
- 2) Aleutian Regional Airport Project Document, Dames and Moore, February 1982
- 3) City of Unalaska Recommended Community Development Plan, Tryck, Nyman and Hayes, 1977
- 4) North Aleutian Basin Sale 92, Draft Environmental Impact Statement, U.S. Department of the Interior Minerals Management Service, January 1985
- 5) Reconnaissance Study of Energy Requirements and Alternatives, Appendix: Unalaska, Alaska Power Authority, April 1984
- 6) St. George Basin Sale 89, Final Environmental Impact Statement, U.S. Department of the Interior Minerals Management Service, April 1985
- 7) Verbal contacts with the Alaska Department of Fish and Game in Kodiak, August 12, 1985
- 8) Other "contacts" include staff, trip reports, files

S E A A N D S

B E R I N G



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SCALE IN MILES

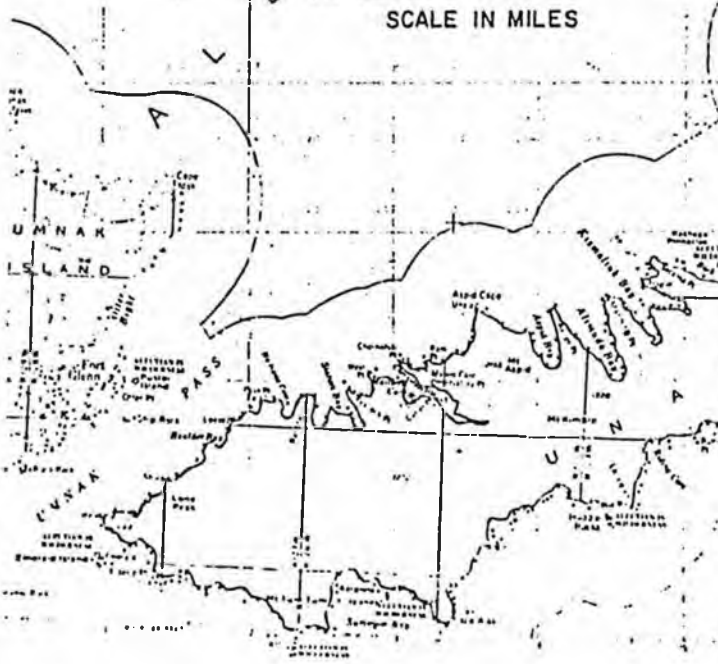
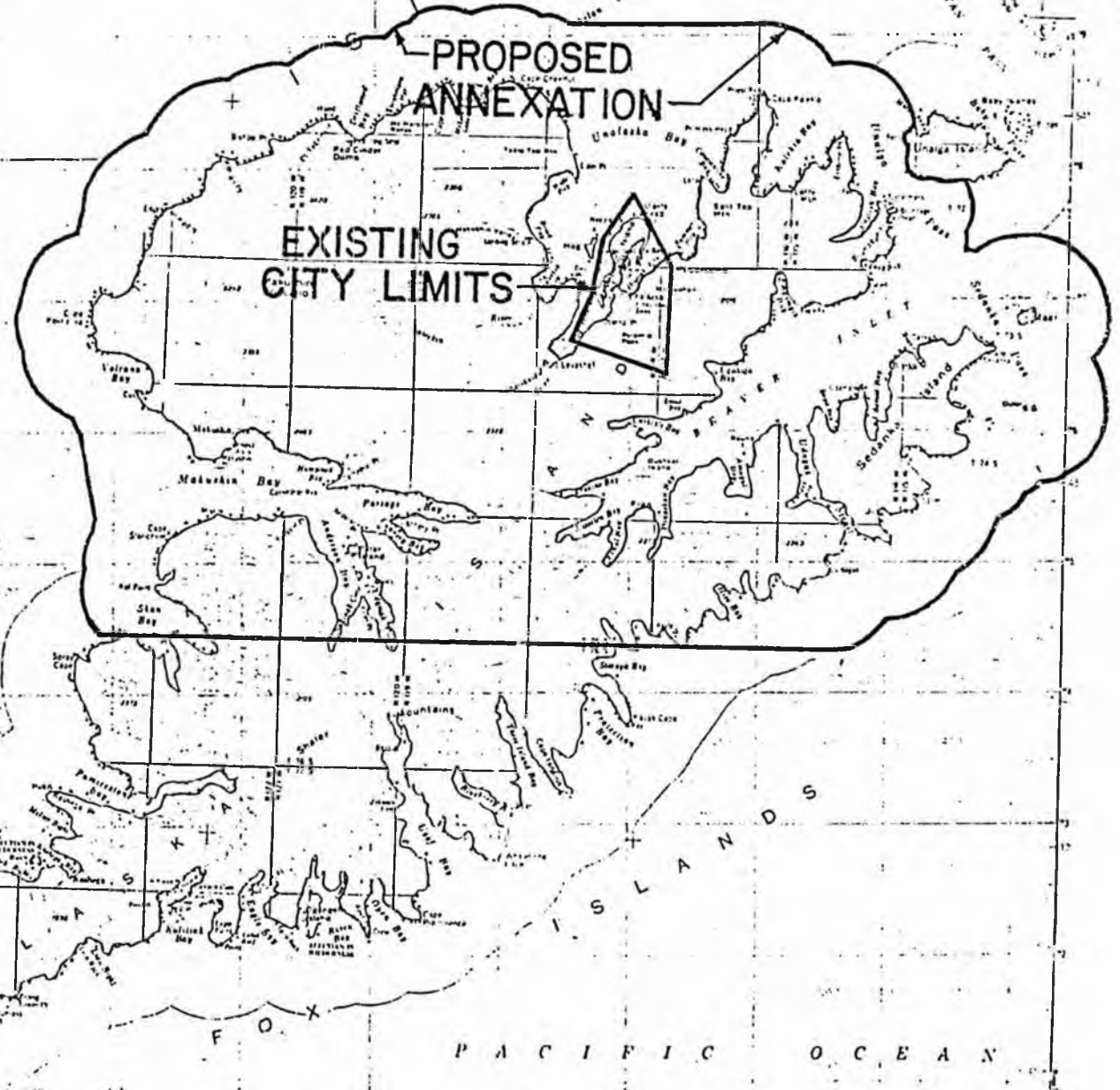


EXHIBIT A

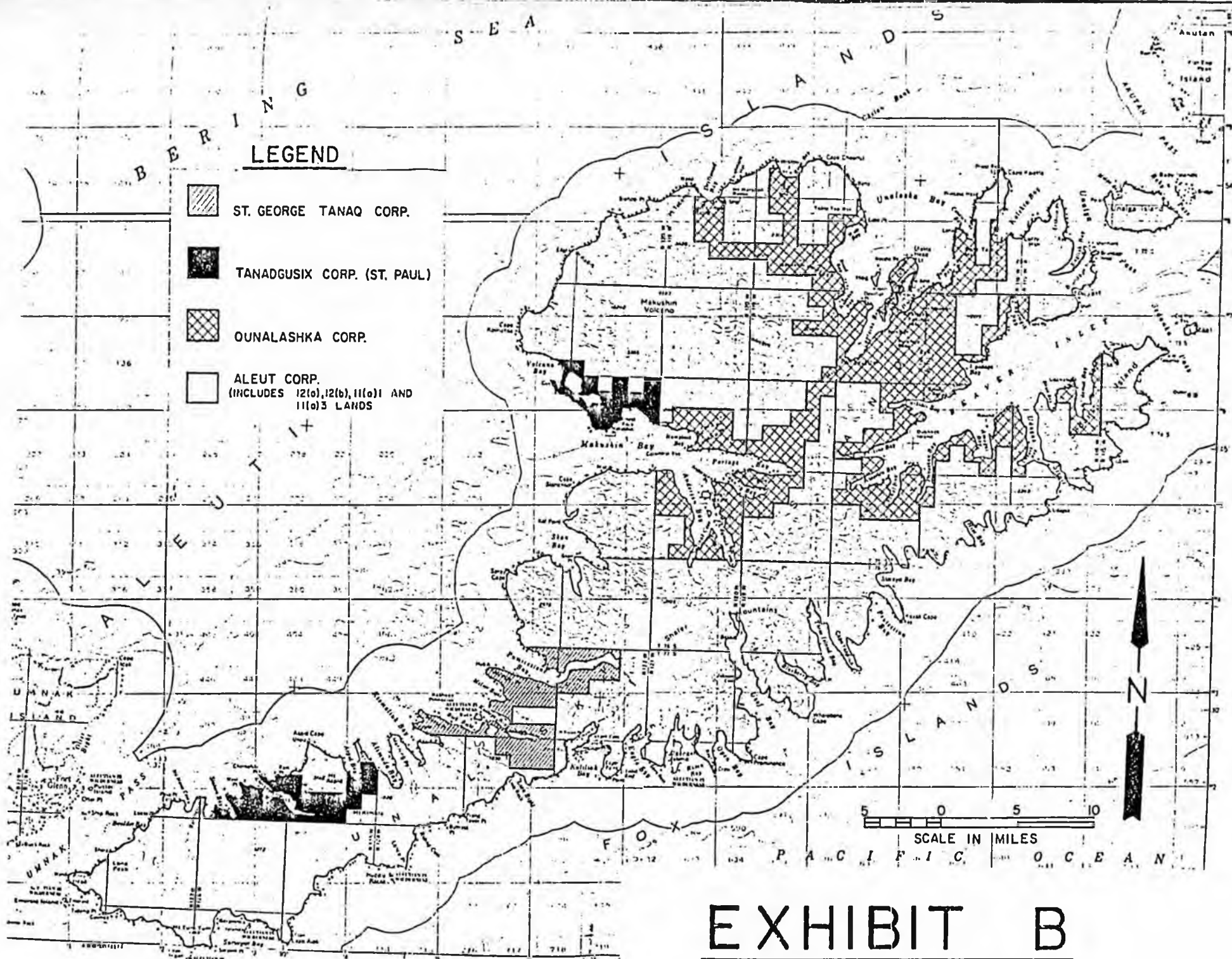


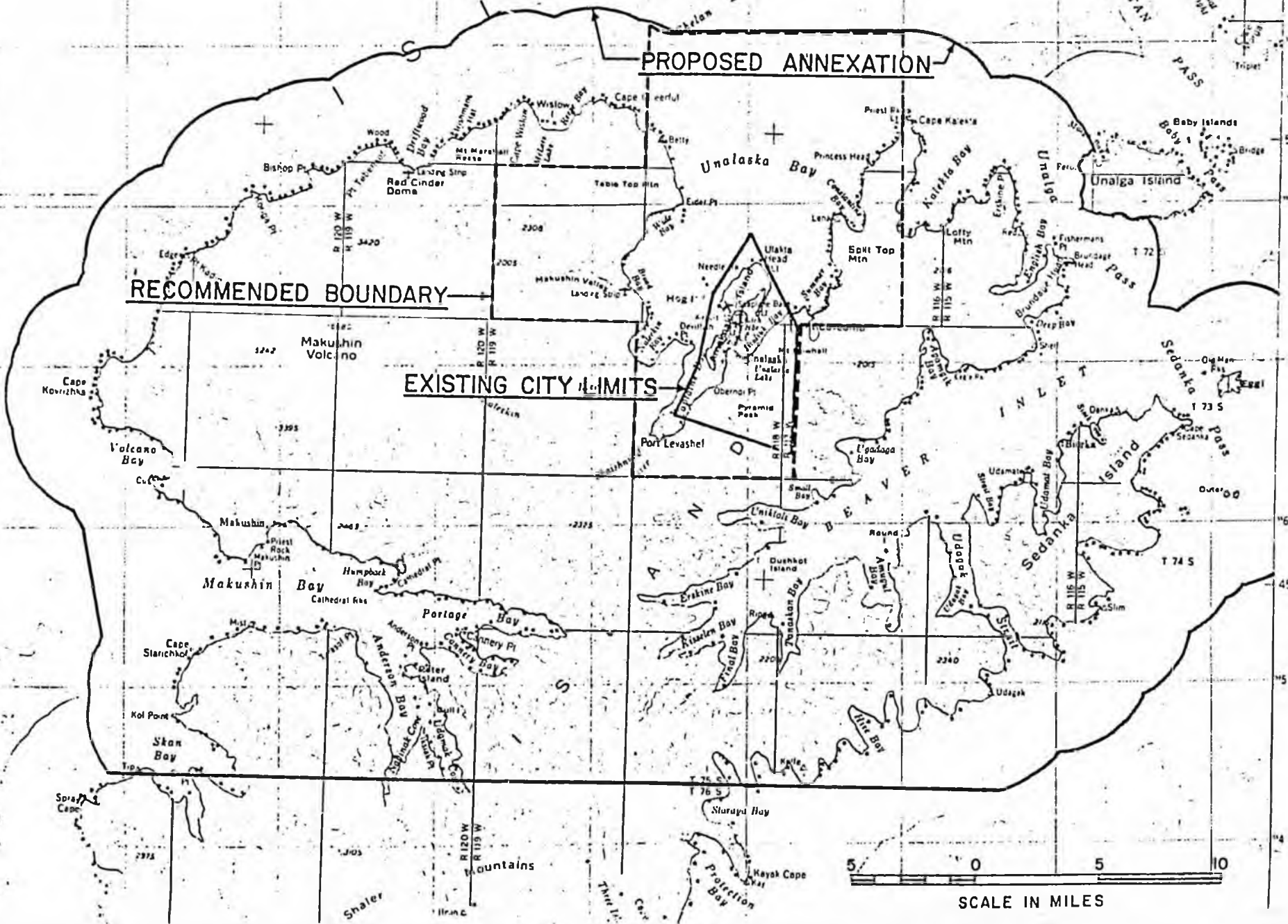
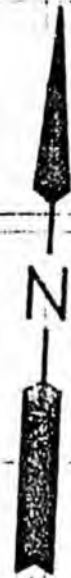
EXHIBIT B

LAND STATUS

S E A

EXHIBIT C

A N D S



SCALE IN MILES

Legal Description of Recommended
Boundary - City of Unalaska Annexation
September 17, 1985

The Land within the following:

- T 715 R118W S.M.
Sections 1-36
- T 715 R117W S.M.
Sections W1/2 23, W1/2 26, 34, W1/2 35
- T 725 R119W S.M.
Sections 1-36
- T 725 R118W S.M.
Sections 1-36
- T 725 R117W S.M.
Sections W1/2 2,3,4,5,6,7,8,9,10,W1/2 11,W1/2
14,15,16,17,18,19,20,21,22,W1/2 23,W1/2
26,27,28,29,30,31,32,33,34,W1/2 35.
- T 735 R118W S.M.
Sections 1-36
- T 735 R117W S.M.
Sections W1/2 6, W1/2 7, W1/2 18, W1/2 19, W1/2 30, W1/2 31

Containing 98.56 square miles of land more or less.

The waters in and northerly of Unalaska Bay from a point north
3 nautical miles offshore from the west border Section 30, T
715 R118W S. M. easterly to a point north 3 nautical miles
offshore from the east border of the W1/2 Section 23, T 715
R117W S.M.

Containing 98.56 square miles of water more or less.

For a total combined area of 197.12 square miles more or less.

Pending Legislative Review Annexation Petitions

1. City of Angoon: Territory proposed for annexation consists of approximately 87 square miles (55,680 acres) including the areas described as Killisnoo Island, the Favorite Bay area, Mitchell Bay and the Hood-Bay area; (A hearing is scheduled for 1:00 p.m., November 24, in the City of Angoon.)

3. City of Ketchikan (four separate petitions):
A. Coast Guard Addition, approximately 121.31 acres;
(All four hearings are scheduled for 7:00 p.m., November 24, 1985, in the City of Ketchikan.)

City of Ketchikan:

- B. University of Alaska Addition; (approximately 48.30 acres)

City of Ketchikan:

- C. BLM-KPU Addition (approximately 515.62 acres)

City of Ketchikan:

- D. Gisse, Furuseth and Spear Additions (approximately approximately 58.61 acres)

4. City of North Pole: Three separate areas (totalling approximately 1.14 square miles); A hearing was held October 26, 1985 in the City of North Pole. (A decisional session on the petition is scheduled for November 9, 1985, in Anchorage.)

5. City of Unalaska: Consisting of a portion of Unalaska Island, Amaknak Island, Egg Island, Hog Island, Sedanka Island and the territory three nautical miles seaward of these islands. The total area of the territory proposed for annexation is approximately 1,294 square miles. (Approximately 60% of the territory proposed for annexation is land and 40% is water.) A hearing was scheduled for November 8, 1985, in the City of Unalaska. The hearing was cancelled due to weather conditions in Unalaska and has been tentatively rescheduled for January 11, 1986.)

Pending Local Action (election) Annexations:

6. City of Kodiak: has petitioned to annex approximately 81.3 acres of land contiguous to the present City limits in the area referred to as the Mission Lake Neighborhood. (A teleconferenced hearing was scheduled for November 4, 1985, in Kodiak, but was cancelled due to Kodiak weather conditions. A new date for a hearing will be established.)

Draft

Other Pending Actions

7. Reconsideration of the petition for dissolution of the City of Akiachak. This has been scheduled for discussion and possible action at the November 9, 1985 meeting of the Commission in Anchorage.
8. Detachment of NANA Regional Corporation Lands from the North Slope Borough

The area in question consists of approximately 3,298 square miles of territory. The attached memorandum from the Department of Community and Regional Affairs outlines specific developments regarding this matter.

DRAFT
STATE OF ALASKA
LOCAL BOUNDARY COMMISSION-MINUTES
MEETING OF OCTOBER 26, 1985

MEMBERS PRESENT:

Robert Eder, Chairman
Dave Hanson
Josephine Anderson

PLACE:

City of North Pole
Council Chambers
North Pole, Alaska

STAFF PRESENT:

Gene Kane, LBC Staff Assistant
Dan Bockhorst, LBC Program
Supervisor

SUBJECT:

Hearing on a petition for
annexation of 1.14 square
miles (approximately)
submitted by the City of
North Pole

OTHERS PRESENT:

Connie Oehring
Sunny Carpenter
Michael A. Sims
Dallas G. Smith
Ed Pitt
Kent M. Herman
Larry D. Carpenter
Charles D. Leslie
Carol V. Leslie
William Wangaman
Thomas Maher

James D. Nordale
Terry Miller
John D. Arnold
Mark Roy
Bill Skorick
Russ Cary
Ray Lund
Betty Zabek
David Haywood
Louise Haywood

Chairman Robert Eder called the meeting to order at 7:00 p.m.

M/S Dave Hanson/Jo Anderson: to approve the agenda as submitted. The motion was approved unanimously.

M/S Jo Anderson/Dave Hanson: to approve the minutes of the August 2, 1985, meeting of the Commission. The motion was approved unanimously.

Staff Assistant Gene Kane provided a brief summation of the Department's report to the Local Boundary Commission concerning the proposed annexation.

Chairman Eder invited the public to offer testimony on the petition. Testimony was given by:

Carleta Lewis
Sunny Carpenter
Larry Carpenter
Kent M. Herman
Thomas Maher
William Wangaman
Curt Ostrem

James Nordale
Alan Platt
Ray Lund
Terry Miller
Betty Zabek
John Miles

After hearing testimony, the Commission discussed scheduling of the reconsideration of the petition for dissolution of the City of Akiachak.

M/S Dave Hanson/Jo Anderson: to schedule a decision session on the North Pole annexation petition concurrent with reconsideration of the petition for dissolution of the City of Akiachak on November 9, 1985, in Anchorage. The motion was approved unanimously.

DRAFT

M/S Jo Anderson/Dave Hanson: to appoint Charles Bettisworth standing acting chairman during absences of Chairman Eder. The motion was approved unanimously.

M/S Dave Hanson/Jo Anderson: to adjourn. The meeting was adjourned at 9:05 p.m.

APPROVED:

Robert Eder, Chairman

Date

ATTESTED:

Gene Kane
Staff Assistant to the
Local Boundary Commission

Date