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321

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907.465.3800

LEGISLATIVE AFFAIRS AGENCY
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May, 1988

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

Mary Van Nimwegen

House C+RA 2-1-88 3:00p.m.

File Contents

SB 321 - Approp: Aleutians East Borough Start-up

<u>No.</u>	<u>Description</u>
1.	Bill - SB 321
2.	Bill Review -HCRA Staff
3.	Information from Sponsor (Aleutians East)
4.	Position Paper - DCRA

SB321.FIL
1/27/88

Bill Review

SB 321 - "An Act making a supplemental appropriation to the Organization Grant Fund for payment as an organization grant to the Aleutians East Borough; and providing for an effective date."

Review:

Supplemental grants are needed from time to time based upon new borough incorporations. In this case, East Aleutian Borough was formed and its officials elected in the election of 1987.

Section 29.05.200 establishes an organization grant fund whereby supplemental appropriations based on Sec. 29.05.190 funnels transitional grants to any newly incorporated borough.

HB 360 provides for the sum of \$300,000 to be appropriated from the general fund to the organizational grant fund per AS 29.05.200. Payment under AS 29.05.190 prescribed incremental amounts from organization grant fund of:

- (1) \$300,000 for borough's 1st full or partial fiscal year
- (2) \$200,000 for borough's 2nd fiscal year; and
- (3) \$100,000 for borough's 3rd fiscal year.

HB 360 provides that the Act takes effect immediately under AS 01.10.070(c).

2 SB 321

Alaska State Legislature

ARLISS STURGULEWSKI, Chairman
TIM KELLY, Vice Chairman
RICK HALFORD
MIKE SZYMANSKI
FRED ZHAROFF

P. O. BOX V
JUNEAU, ALASKA 99811
(907) 465-4989



Senate Community and Regional Affairs Committee

TO: Senate C&RA Committee January 12, 1988

FROM: Senate C&RA Staff *MEL*

RE: SB 321 - "An Act making a supplemental appropriation to the Organization Grant Fund for payment as an organization grant to the Aleutians East Borough; and providing for an effective date."

State law provides for a \$300,000 organization grant to new boroughs. Last year the Aleutians East Borough was formed after the budget was passed. The budget contained intent language instructing DC&RA to request a supplemental for any new local government formed in FY '88.

SB 321 would fund the first year's organization grant. The Governor's proposed budget contains the funding for the second year grant as required by law.

The City of Sand Point is currently fronting the borough's cost pending passage of this supplemental.



SENATOR FRED F. ZHAROFF
ALASKA STATE LEGISLATURE

P.O. BOX 405, KODIAK, ALASKA 99815 (907) 486-5259

DURING SESSION:

P.O. BOX V, JUNEAU, ALASKA 99811 • (907) 465-3473 • 465-3474

DISTRICT N

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

MEMORANDUM

TO: Senator Arliss Sturgulewski, Chair
Senate Community & Regional Affairs Committee

FROM: Senator Fred F. Zharoff *F. Zharoff*

DATE: January 11, 1987

SUBJ: Scheduling of Committee Hearing for SB 321

Senate Bill 321, "An Act making a supplemental appropriation to the Organization Grand Fund for payment as an organization grant to the Aleutians East Borough; and providing for an effective date" was introduced today under my sponsorship and referred to the Community & Regional Affairs Committee with an additional referral to the Finance Committee.

As you are aware, the Aleutians East Borough was created by approval of the voters in that region last October. This election establishes the borough during fiscal year 1988. Under AS 29.05.190(a)(1) a newly formed borough is entitled to a grant of \$300,000 for the borough's first full or partial fiscal year of incorporation for transitional expenses.

In addition, the Department of Community & Regional Affairs is requesting \$200,000 in their FY 89 budget proposal for the second year of the borough's incorporation.

Therefore, I respectfully request scheduling of a committee hearing on SB 321 at your earliest possible convenience in order to expedite these funds being made available to the borough to defray their transitional expenses.

My staff will prepare back-up information for the committee's use in their deliberations. Thank you and please give me a call if you have any questions regarding this request.

DEPARTMENT ISSUES DRAFT REPORT ON NEW BOROUGH

The Department of Community and Regional Affairs has sent out for review a draft of its report and recommendations on the proposed incorporation of the Aleutians East Borough.

The new borough would include the communities of Akutan, Cold Bay, False Pass, King Cove, Nelson Lagoon, Port Moller, and Sand Point. As proposed, it would contain about 27,022 square miles, including the area from Strogonof Point and Stepovak Bay on the Alaska Peninsula to and including Akutan Island. (See the adjacent map.)

A final report is expected to come out of DCRA to the Local Boundary Commission by mid-June, with reviewers and local citizens having the opportunity to contact the Local Boundary Commission with their comments or to speak up or ask questions at informational meetings in Sand Point, King Cove, and Cold Bay next week. (See the meeting notice elsewhere in these pages.)

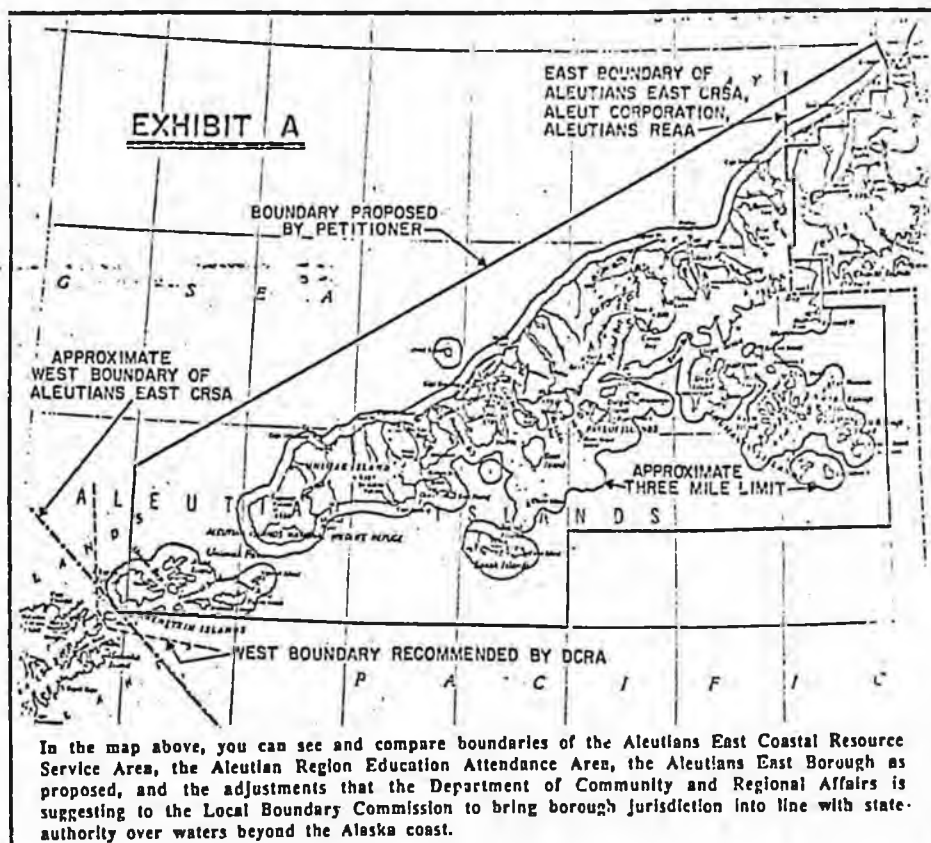
As well as recommendations, the report, required by law, includes the petitioners' reasons for wanting to incorporate and an evaluation of the petition against standards and regulations that must be met if incorporation is to be allowed, should the voters approve.

The petitioners see more local support and more options in terms of boundaries for a borough formed from local initiative as opposed to one that may be mandated for them. They believe as a borough, residents will be better able to raise the required local funding under the new foundation formula for education than would the cities within the unorganized borough. With a local government of local citizens, the interests of residents can best be served; they will have a strengthened and unified voice in dealings with state and federal governments; and the plans and decisions affecting them will be based on knowledge of the local realities.

After having evaluated the petition, staff of DCRA conclude that if incorporated, the new borough would meet the standards of having a population interrelated and integrated as to its social, cultural and economic activities and being large and stable enough to support borough government. They accept the existing land, water, air and telecommunications facilities as sufficient to allow the communication and exchange necessary for the development of integrated borough government.

The department also concludes that the economy of the area includes the human and financial resources capable of providing municipal services. In reaching this conclusion, consideration was given to the area's land use patterns, property values, total economic base, total personal income, resource and commercial development, anticipated functions, and expenses and income of the proposed borough. Further, the department concludes that there are sufficient anticipated revenues to maintain and operate, at a minimum, the mandatory powers of the proposed second class borough government; the estimates of revenue included in the petition for incorporation appear to be conservative, yet realistic.

The borough has said it will impose an area-wide sales tax of 2 percent upon



raw fish only and does not intend to promote imposition of a borough property tax. DCRA notes in its report that the new borough will face transition delays in receipt of many of its sources of income, and will have to rely principally upon the proceeds from its proposed sales tax and expected Coastal Management Program grant for initial operating funds.

In terms of boundaries, DCRA finds that, all factors considered, the boundaries proposed by the petitioners

and discussions contained in the report, the department recommends that, because approximately 60 percent of all borough revenues anticipated by the petitioners will be generated by the annual proceeds of the proposed sales and use tax, the petition be approved by the Local Boundary Commission with the stipulation that the proposed sales and use tax levy be submitted to the voters at the time the incorporation proposition is presented, and that incorporation be made dependent upon the passage of the tax

publicly noticed by the petitioners.

4. The department holds at least one public information meeting in the area proposed for incorporation.

5. The department submits a report and recommendation to the LBC on the proposed incorporation. (Above, the draft of that report has been described.)

6. The LBC holds a public hearing in the area proposed for incorporation.

7. Within 90 days of the public hearing, the LBC makes a decision to accept or reject the petition or to accept the petition with amended boundaries.

8. If approved by the LBC, the Director of the Alaska Division of Elections is notified and orders an election to determine whether borough formation shall occur, to elect initial borough officials, and (if appropriate) to provide an opportunity for voters to grant the assembly authority to impose a sales tax.

9. In compliance with Federal Voting Rights Act requirements, the department sends the incorporation proposal and proposed date of the election to the U.S. Department of Justice for approval.

10. The local election is held by mail-in ballot or conventional method (whichever is selected by the Division of Elections in accordance with AS 15.20.800) on the date ordered by the Alaska Division of Elections.

11. The election is certified and, if approved by a majority of voters, the department issues a certificate of incorporation for the new borough.

**Public Hearings
PROPOSED INCORPORATION
ALEUTIANS EAST BOROUGH
Anchorage, King Cove, Cold Bay and Sand Point, Alaska
JUNE 9, 11, AND 12 1987**

Anchorage June 9, 1:30 P.M. Anchorage MRAD Conference Room (Room 404)
949 E. 36th Avenue

Sand Point June 12, 7:00 P.M. Sand Point Municipal Building
King Cove June 12, 1:30 P.M. King Cove City Office Building
Cold Bay June 12, 7:00 P.M. Cold Bay Municipal Building

with the additional inclusion of Unalga and Baby Islands, generally conform to the natural geography of the area and comprise all areas necessary for full development of municipal services.

The department notes, however, that in fact the proposed borough's authority is limited by the state's, with waters beyond the three-mile limit beyond borough authority. The size of the proposed borough would thus be more on the order of 15,200 square miles than the 27,022 square miles described in the petition.

Based on its conclusions, observations

proposition.

Procedures

The procedure for borough incorporation is established in state law. The steps are as follows:

1. A petition with a supporting brief is submitted to the department.
2. The form and content of the petition are reviewed by the department to determine whether they substantially conform to the requirements of law.
3. If the form and content of the petition are substantially proper and correct, submission of the petition is



CITY OF KING COVE

P.O. Box 37 • King Cove, Alaska 99612 • (907) 497-2340

FEB 27 1987

February 23, 1987

Honorable Fred Zharoff
Alaska State Senate
Pouch V
Juneau, Alaska 99811

RE: Aleutians East Borough Formation

Dear Senator Zharoff:

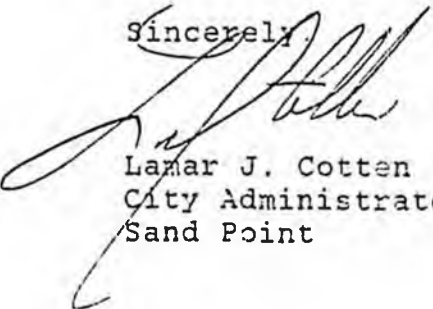
The communities of the Aleutians East region are pursuing incorporation of a borough government. As we have discussed, the region needs your support and action on two funding issues to accomplish borough incorporation. These actions are:

o A legislative appropriation of \$30,000 to assist the Aleutians East region in its present efforts to organize a borough government. The region has also been working with the Department of Community and Regional Affairs to obtain funds for this effort.

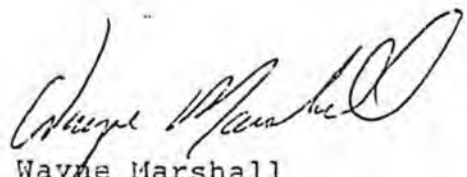
o A legislative appropriation of \$300,000 in the FY 88 budget for the first year organizational grant for the newly incorporated Aleutians East Borough. The award of this organizational grant is stipulated in AS 29.05.190.

The attached position papers provide supplemental information on these requests. The communities of the Aleutians East region request your support and assistance in obtaining those funds.

Sincerely,



Lamar J. Cotten
City Administrator
Sand Point



Wayne Marshall
City Manager
King Cove

1689 'C' Street
Anchorage, Alaska 99501

attachments

INCORPORATION GRANT TO THE ALEUTIANS EAST BOROUGH

Request: A Legislative appropriation of \$300,000 in the FY 88 budget for the first year organizational grant for the Aleutians East Borough. The region needs assistance from its Legislators and the Department of Community and Regional Affairs to ensure this request is included in the FY 88 budget.

Background: Residents of the Aleutians East region have decided to pursue incorporation of a borough government, and are working toward a Fall 1987 vote on this issue. If this vote is positive, the borough would be operational around January 1, 1988. AS 29.05.190 stipulates that newly incorporated borough governments shall receive a first year organizational grant of \$300,000 from the State. The Department of Community and Regional Affairs is responsible for disbursing these grant funds.

Need for and use of \$300,000 Grant: The Borough will use the \$300,000 it is stipulated to receive by Alaska Statutes to meet initial year operating costs of the Borough. The monies will be needed around January 1, 1988, so they must be requested in the State FY 88 budget.

In addition, AS 29.05.190 stipulates a second year organization grant of \$200,000, and a third year organizational grant of \$100,000. These monies will be needed in the State FY 89 and FY 90 budgets respectively.

ORGANIZATION OF THE ALEUTIANS EAST BOROUGH

REQUEST:

Award of \$30,000 to assist the communities of Akutan, Cold Bay, False Pass, King Cove, Nelson Lagoon, and Sand Point in their present efforts to organize a borough government for the Aleutians East region. The region requests a legislative appropriation of funds from the Department of Community and Regional Affairs for this purpose.

BACKGROUND:

Over the last 2-3 years, residents of the Aleutians East region have examined and analyzed establishing a borough government as a way to enhance local control and service delivery, particularly because of the anticipated decline in state and federal monies to the region. At a February 3, 1987 meeting in Anchorage, leaders from each of the region's six communities (at least three representatives from each community) decided to pursue forming a borough. The region is preparing the required petition that states its intent to establish a borough and working toward a Fall 1987 vote on this issue.

Community leaders have decided to pursue forming a borough. These leaders have identified the need to establish a committee of one representative from each community to travel to each of the region's communities. This travel will give the representatives an opportunity to describe their decision, demonstrate that it is a region-wide harmonious decision, and respond to questions. The committee would like to start its travel in March, and needs funds to accomplish this effort.

In addition, Alaska Statutes dictate a complex process to establish a borough government. A petition must be submitted, the petition is analyzed and acted upon by the State Local Boundary Commission, meetings must be held and finally there is a local vote on if a borough should be established. This process will take 6-9 months and funds to accomplish.

Thus, the \$30,000 requested would be used to:

- o enable travel of the borough organizing committee to each community;

- o prepare and submit the required organizing petition;
- o conduct public information meetings in the communities on borough incorporation;
- o prepare public information materials; and
- o respond to questions of the Local Boundary Commission on incorporating the borough.

The Aleutians East Coastal Resource Service Area (CRSA) would be the best organization to administer these funds.



SENATOR FRED F. ZHAROFF
ALASKA STATE LEGISLATURE

P.O. BOX 405, KODIAK, ALASKA 99615 (907) 486-5259
DURING SESSION:
P.O. BOX V, JUNEAU, ALASKA 99811 • (907) 465-3473 • 465-3474

(3) SB 321

JAN 25 1988

FM
CRA

DISTRICT N

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

22 January, 1988

MEMORANDUM:

TO: Representative Springer, Chairman
House C&RA Committee

FROM: Senator Fred Zharoff

M.T. for FZ

I would like to thank you for your prompt scheduling consideration for SB 321 "An act making a supplemental appropriation to the organization grant fund for payment as an organization grant to the Aleutians East Borough; and providing for an effective date".

Under As 29.05.190 (a) (1), a newly formed borough is entitled to a grant of \$300,000 for the borough's first full or partial fiscal year of incorporation. The Aleutians East Borough was formed during the interim, October 23rd, 1987, and is currently operating on a loan from the community of Sand Point pending receipt of its organizational grant. Prompt scheduling of this measure will help expedite transitional expense funding for the new borough.

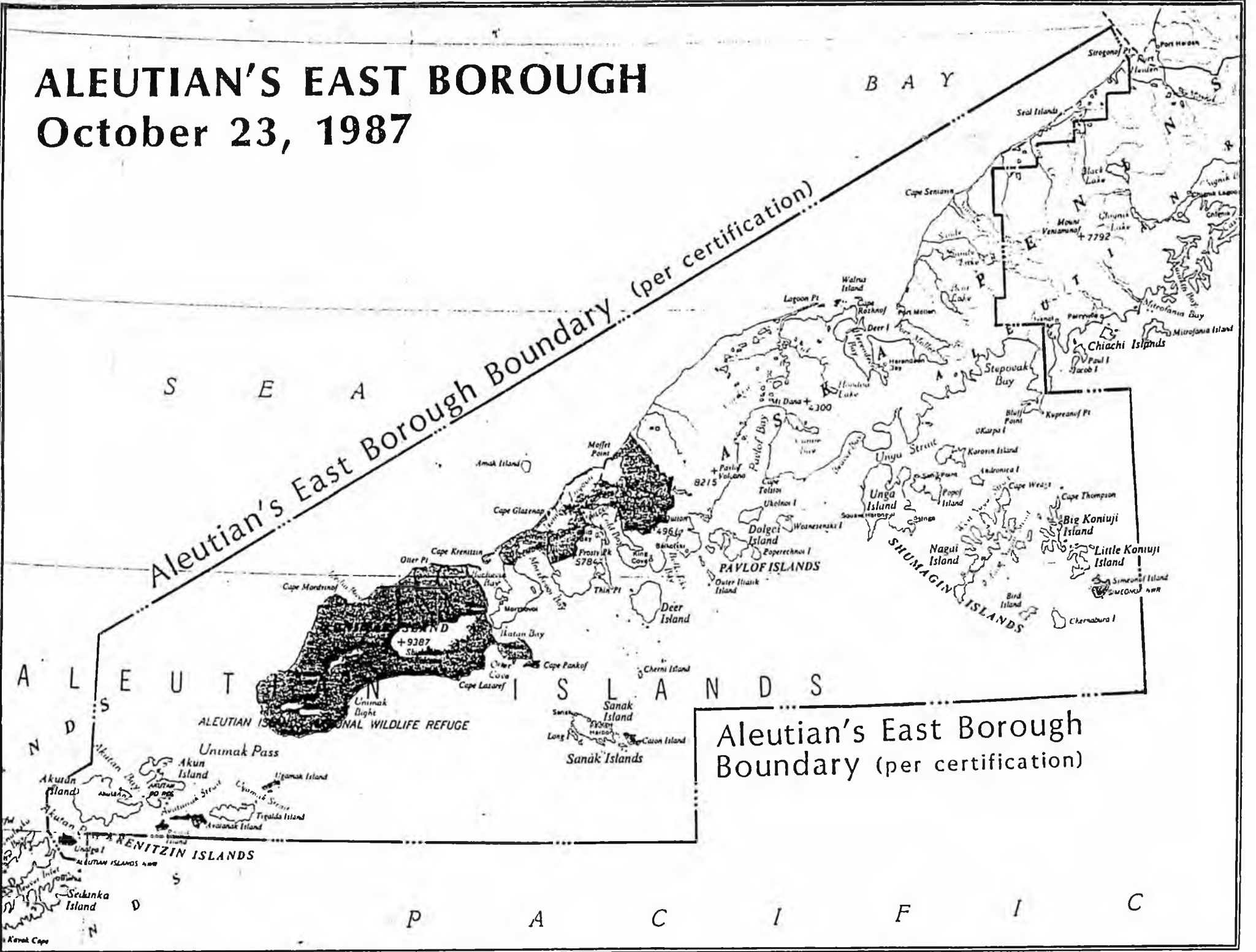
Attached you will find back up material relating to this measure, and Michael Thill of my staff will be available to discuss this issue with either yourself or your staff.

Thank you.

ALEUTIAN'S EAST BOROUGH

October 23, 1987

Aleutian's East Borough Boundary (per certification)



Aleutian's East Borough Boundary (per certification)

STATE OF ALASKA

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

- P.O. BOX B
JUNEAU, ALASKA 99811-2100
PHONE: (907) 465-4700
- 949 E. 36TH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99508-4302
PHONE: (907) 563-1073

January 12, 1988

POSITION PAPER

RE: Senate Bill 321

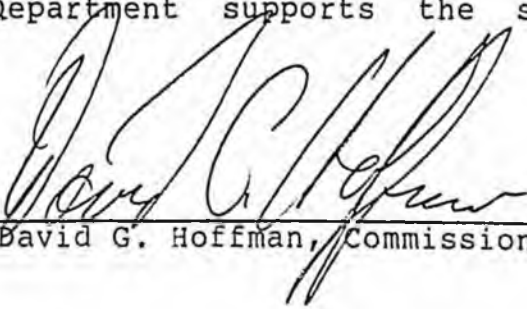
SPONSOR: Zharoff

Program Effects of Bill

The Organization Grant Fund is established in the Department of Community and Regional Affairs under AS 29.05.200. AS 29.05.190 provides that a newly incorporated borough is entitled to receive an organizational grant of \$300,000 for its first year of existence, of \$200,000 for its second year, and of \$100,000 for its third year of existence. On October 6, 1987, the residents of the Aleutians East Borough voted in favor of borough formation. The election was certified on October 23, 1987. This bill would appropriate money to the Organization Grant Fund for the payment of an organization grant to the Aleutians East Borough.

Comments

While a request for this funding will be made in the Governor's supplemental budget request, the borough is in need of these organizational funds. The Department supports the speedy passage of this appropriation.



David G. Hoffman, Commissioner

AGENCY: DEPARTMENT OF COMMUNITY & REGIONAL AFFAIRS
 CATEGORY: DEVELOPMENT

PROGRAM: COMMUNITY ASSISTANCE GRANTS
 SUB-PROGRAM: ORGANIZATIONAL GRANTS

LEG. FIN.

* * * FY89 GOVERNOR (DMB NOTES) * * *

DETAIL DESCRIPTION OF VETOS, TRANSFERS, INCREMENTS, & DECREMENTS

CHANGES FROM FY88 AUTHORIZED TO FY89 GOVERNOR

REF#	DESCRIPTION	AGENCY / GOVERNOR				LINE ITEM IMPACT									
WHO:	PFT	PPT	TOTAL	GEN FUND	OTHER	100	200	300	400	500	600	700	800		
2220 DELETE ONE-TIME ITEMS															
AGY:	0.0	0.0	-100.0	-100.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	-100.0	0.0		
GOV:	0.0	0.0	-100.0	-100.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	-100.0	0.0		
3010 GRANT TO ALEUTIAN'S EAST BOROUGH															
AGY:	0.0	0.0	200.0	200.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	200.0	0.0		
GOV:	0.0	0.0	200.0	200.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	200.0	0.0		

* * * PROGRAM DESCRIPTION & PRIOR YEAR INFORMATION * * *

FY88 INTENT: IT IS THE INTENT OF THE LEGISLATURE THAT THE DEPARTMENT REQUEST A SUPPLEMENTAL APPROPRIATION SHOULD ANY NEW CITY AND/OR BOROUGHS FORM DURING FISCAL YEAR 1988.

AGENCY RESPONSE: ONLY ONE MUNICIPAL GOVERNMENT, THE ALEUTIANS EAST BOROUGH, HAS FORMED TO DATE DURING FY88. THE BOROUGH WAS INCORPORATED ON OCTOBER 23, 1987. THAT BOROUGH IS ENTITLED TO \$300,000 IN ORGANIZATIONAL GRANT FUNDS FOR THIS FISCAL YEAR, \$200,000 THE SECOND YEAR, AND \$100,000 THE THIRD YEAR. ON OCTOBER 30, 1987, COMMISSIONER HOFFMAN REQUESTED THAT GOVERNOR COWPER INCLUDE \$300,000 FOR THIS GRANT IN THE GOVERNOR'S SUPPLEMENTAL BUDGET REQUEST FOR FY88. THE COMMUNITY OF ATKA PETITIONED TO INCORPORATE AS A SECOND CLASS CITY. PURSUANT TO AS 29.05.180, AN INCORPORATING COMMUNITY IS ENTITLED TO A \$50,000 ORGANIZATIONAL GRANT IN THE FISCAL YEAR IT IS FORMED, AND \$25,000 THE FOLLOWING YEAR.

08-18-01-07-00 (21-72-3-06-05-00)

STATE OF ALASKA -- COMPONENT BUDGET SUMMARY

SALSFRHA 15:48 12/29/87

AGENCY: DEPARTMENT OF COMMUNITY & REGIONAL AFFAIRS
 CATEGORY: DEVELOPMENT

PROGRAM: COMMUNITY ASSISTANCE GRANTS
 SUB-PROGRAM: ORGANIZATIONAL GRANTS

LEG. FIN.

EXPENDITURES & FUNDING	FISCAL YEAR 1989												
	(01) FY87 ACT	(19) FY88 CC	(03) COL 03	(04) COL 04	(02) FY88 ATH	(06) COL 06	(20) FY89 AGY	(08) FY89 GOV	(09) HOUSE	(10) SENATE	(11) C. C.	(12) BILLS	(13) LEG.REC.
01 PERS. SERV.													
02 TRAVEL													
03 CONTRACTUAL													
04 COMMODITIES													
05 EQUIPMENT													
06 LANDS/BLDGS													
07 GRANTS, CLMS	200.0	100.0			100.0		200.0	200.0					
08 MISC.													
** TOTAL EXPEND	200.0	100.0			100.0		200.0	200.0					
09 I-A TRANSFER													
1004 GEN FUND	200.0	100.0			100.0		200.0	200.0					
15 FULL TIME													
16 PART TIME													
17 TEMPORARY													
18 STAFF MONTHS													

1	DEPARTMENT OF COMMUNITY & REGIONAL AFFAIRS (CONT.)		APPROPRIATION	APPROPRIATION FUND SOURCES	2
2	FY 88 INTENT		ITEMS	GENERAL FUND	OTHER FUNDS
3		ALLOCATIONS			
4	ORGANIZATIONAL GRANTS	100,000			
5	IT IS THE INTENT OF THE LEGISLATURE THAT THE DEPARTMENT				
6	REQUEST A SUPPLEMENTAL APPROPRIATION SHOULD ANY NEW CITY				
7	AND/OR BOROUGHS FORM DURING FISCAL YEAR 1988.				
8	DESIGNATED GRANTS	2,035,300	4,600,000	2,789,600	1,810,400
9	LOCAL GOVERNMENT ASSISTANCE				
10	TRAINING AND DEVELOPMENT (34 POSITIONS)	1,784,700			
11	STATE ASSESSOR (6 POSITIONS)	194,900			
12	LOCAL BOUNDARY COMMISSION (2 POSITIONS)	115,300			
13	GRANTS ADMINISTRATION (10 POSITIONS)	451,900			
14	STATEWIDE ASSISTANCE (8 POSITIONS)	2,053,200			
15	ENERGY PROGRAMS		2,027,700	623,100	1,404,600
16	ENERGY CONSERVATION (8 POSITIONS)	1,672,900			
17	WEATHERIZATION CIP (5 POSITIONS)	354,800			
18	IT IS THE INTENT OF THE LEGISLATURE THAT THE DEPARTMENT				
19	ESTABLISH A CONSUMER ADVISORY BOARD TO PROVIDE OVERSIGHT				
20	AND RECOMMENDATIONS AS THE DEPARTMENT PREPARES 1989				
21	RECOMMENDATIONS FOR USE OF THE EXXON AND/OR STRIPPER				
22	WELL SETTLEMENT FUNDS. THE CONSUMER ADVISORY BOARD				
23	SHOULD HAVE REPRESENTATIVES OF CONSUMERS, ENERGY				
24	PROFESSIONALS, AND LOCAL GOVERNMENT. THE BOARD'S				
25	RECOMMENDATIONS SHOULD BE FORWARDED TO THE LEGISLATURE				
26	WITH THE DEPARTMENT'S FUND BUDGET REQUEST. THE BOARD				
27	SHOULD CONSIDER THE DEPARTMENT'S RECOMMENDATIONS				

1	DEPARTMENT OF COMMUNITY & REGIONAL AFFAIRS (CONT.)		APPROPRIATION	APPROPRIATION FUND SOURCES	2
2			ITEMS	GENERAL FUND	OTHER FUNDS
3		ALLOCATIONS			
4	PRIMARILY THROUGH WRITTEN COMMUNICATIONS AND				
5	TELECONFERENCES. IT IS NOT THE INTENT OF THE				
6	LEGISLATURE TO CREATE A BOARD THAT INCURS TRAVEL,				
7	MEETING OR OTHER EXPENSES.				
8	RURAL DEVELOPMENT		749,900	749,900	
9	ANCSA PLAN OF SURVEY (6 POSITIONS)	491,700			
10	MUNICIPAL LANDS TRUSTEE (5 POSITIONS)	258,200			
11	DEUCE GRANTS CIP (1 POSITION)		71,700		71,700
12	IT IS THE INTENT OF THE LEGISLATURE THAT THE DEPARTMENT				

CERTIFICATE

I, DAVID G. HOFFMAN, COMMISSIONER OF THE ALASKA DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS, HEREBY CERTIFY THAT THE ALEUTIANS EAST BOROUGH HAS BEEN DULY INCORPORATED UNDER THE LAWS OF THE STATE OF ALASKA AS DESCRIBED HEREIN EFFECTIVE THE 23rd DAY OF OCTOBER, 1987.

CLASS. The Aleutians East Borough is incorporated as a borough of the second class.

COMPOSITION, APPORTIONMENT AND FORM OF REPRESENTATION OF THE BOROUGH ASSEMBLY. The borough assembly is composed of seven members elected from districts by voters of each district. District 1, encompassing Sand Point, is apportioned three seats on the assembly. District 2, encompassing King Cove, is apportioned two seats on the assembly. District 3, encompassing Cold Bay, is apportioned one seat on the assembly. District 4, encompassing Akutan, False Pass, Port Moller and Nelson Lagoon, is apportioned one seat on the assembly. The composition, apportionment and form of representation shall continue in the fashion described until it is changed in accordance with local, state and federal law.

POWERS. The Aleutians East Borough may exercise all powers and must perform all duties which state law provides generally for municipal governments and specifically for boroughs of the second class. In addition, having received approval from the voters on October 6, 1987, the borough may levy a sales and use tax not to exceed two percent on sales and/or importation of raw fish within the boundaries of the borough.

JURISDICTIONAL BOUNDARIES. The jurisdictional boundaries of the Aleutians East Borough are as follows:

All of that territory along the Alaska Peninsula and the Aleutian Chain lying:

- 1) west of a line beginning at the point of intersection of 57° 00' North Latitude and the extension of a line due north from the NW corner T38S, R60W, Seward Meridian (SM); thence due south to the NW corner T40S, R60W, SM; thence west to the NW corner T40S, R61W, SM; thence south to the SW corner T40S, R61W, SM; thence west to the NW corner T41S, R63W, SM; thence south to the NW corner T42S, R63W, SM; thence west to the NW corner T42S, R65W, SM; thence south to the NW corner T43S, R65W, SM; thence west to the NW corner T43S, R67W, SM; thence south to the SW corner T44S, R67W, SM; thence east to the NW corner T45S, R67W, SM; thence south along the line separating R67W and R68W, SM to the SW corner of T48S, R67W, SM; thence west to the NW corner of T49S, R68W, SM; thence south to the NE corner of T50S, R69W, SM; thence east to the NE corner of T50S, R67W, SM; thence south along the line separating R66W and R67W, SM, to the

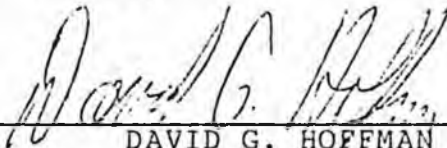
00' West Longitude; thence southerly along 159° 00' West Longitude to 54° 00' North Latitude; and

2) east of a line mid-channel through Unalga Pass, extending northerly mid-line between Unalga and Unalaska Islands and extending southerly mid-line between Unalga and Sedanka Islands;

With respect to the water areas, the boundaries of the Aleutians East Borough extend to the limits of the State's jurisdiction under AS 44.03.010. The territory described above contains 15,405 square miles, more or less, all in the Third Judicial District, State of Alaska.

These boundaries shall remain as described until changed in accordance with law.

SIGNED THIS 23rd DAY OF OCTOBER, 1987

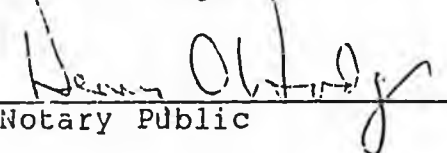


DAVID G. HOFFMAN

ACKNOWLEDGMENT

STATE OF ALASKA)
) SS.
)

This is to certify that on the 23 day of October, 1987, before me, the undersigned, a Notary Public, duly commissioned and sworn as such, personally came David G. Hoffman, to me known to be the Commissioner of the Alaska Department of Community & Regional Affairs, who signed this foregoing Certificate of Incorporation of the Aleutians East Borough.



Notary Public

My commission expires: 12/9/1987

IN THE MATTER OF THE PETITION)
FOR INCORPORATION OF THE)
ALEUTIANS EAST BOROUGH)

SUMMARY OF PROPOSED ACTION

A petition to incorporate the eastern Aleutians region as a second class borough was submitted to the Alaska Department of Community and Regional Affairs (the department) on May 7, 1987.

The area requested for incorporation by the petitioners comprises approximately 27,022 square miles, containing approximately 8,768 square miles of land and 18,254 square miles of water. It includes the territory from Strogonof Point and Stepovak Bay on the Alaska Peninsula to and including Akutan Island. The area's permanent population is centered in the communities of Akutan, Cold Bay, False Pass, King Cove, Nelson Lagoon, Port Moller and Sand Point.

The proposed borough is located principally within the Aleutian Regional Educational Attendance Area (REAA), the Aleutians East Coastal Resource Service Area (CRSA), and the Aleut Corporation Region. However, relatively small portions of the territory extend into the Lake and Peninsula REAA, the Bristol Bay CRSA and the Bristol Bay Native Corporation Region.

Much of the area appears to be beyond the jurisdiction of the state and, as a consequence, beyond the jurisdiction of the proposed borough. It is commonly understood that provisions contained in Alaska Statutes, Section 44.03.010 generally limit the jurisdiction of the state and its subdivisions to an area three geographical (nautical) miles (18,228 feet) seaward of the land. The area proposed for incorporation lying within three geographic miles of the mainland is estimated to be approximately 15,206 square miles, comprised of 8,768 square miles of land and 6,438 square miles of water.

Subsequent to the submission of the petition, the representatives of the petitioners requested in writing that consideration be given to extending the western boundary of the proposed borough to include Unalga Island and the Baby Islands. This additional land and surrounding waters comprise approximately 199 square miles.

Following the receipt of additional materials from the petitioners on May 15, 1987, the petition was determined by the department to be acceptable in terms of form and content. The department's draft report and recommendation to the Local Boundary Commission (LBC or the commission) was issued on May 26, 1987. More than 60 copies of the report or its executive summary were printed and provided to individuals or organizations who had expressed interest in the proposed action. All who received copies were asked to contact the department no later than June 12, 1987 with comments.

Duly noticed public informational meetings were conducted by department staff in Anchorage on June 9, in Sand Point on June 11, and in King Cove and Cold Bay on June 12. At the meetings, staff solicited comments from interested parties regarding the proposed borough incorporation and provided information regarding the incorporation process and standards for borough incorporation.

On June 26, 1987 the LBC convened a public hearing in Cold Bay which was teleconferenced to Sand Point, King Cove and Valdez.

Testimony was received by the commission regarding the proposed incorporation. In order to provide additional opportunity for consideration of comments, the LBC allowed additional written comments to be submitted for the record through noon of July 2, 1987.

A decisional session was held July 8, 1987. All four of the presently appointed members of the commission attended and participated in the decisional session. These consisted of Robert Eder (Chairman), David Hanson, Jo Anderson and C.B. Bettisworth. The seat on the commission appointed from the Second Judicial District of the State of Alaska is presently vacant.

Based upon the oral testimony and written materials submitted in regard to this matter, the commission makes the findings of fact and conclusions of law set out below. Written materials specifically included the following:

- 5/07/87 Petition for incorporation and initial brief; petitioners' supplemental briefs of 5/15/87, 6/12/87, 6/26/87, 7/2/87 (re: Strogonof Point) and 7/2/87 (re: Stepovak Bay);
- Resolution 87-41 of the City of Unalaska.
- 5/28/87 telegram from Trefon Angasan, Secretary, Alaska Peninsula Corporation;
- 6/2/87 letter from Karen Van Wingerden, Secretary - Treasurer, Bay View Corporation;
- 6/3/87 letter from Donald Nielsen, Senior Vice President of the Bristol Bay Native Corporation;
- 6/5/87 letter from Trefon Angasan;
- 6/9/87 letter from Pamela Christensen, City Clerk, City of Port Heiden City Council;
- 6/9/87 comments submitted at the department's informational meeting by Trefon Angasan;
- 6/9/87 statement presented at the department's informational meeting by the Bristol Bay Native Corporation;
- 6/9/87 letter from Samuel J. Fortier, Attorney representing the Bay View Corporation;
- 6/9/87 letter from Samuel J. Fortier, Attorney representing the Oceanside Corporation;
- 6/10/87 letter from John Hedland, Attorney representing Lake and Peninsula REAA;
- 6/10/87 letter from Tom Hawkins, Director, Division of Lands, Alaska Department of Natural Resources;
- 6/11/87 letter from Alice Ruby Chairperson, Bristol Bay CRSA Board;
- 6/12/87 Petitioners' supplemental brief;
- 6/16/87 Department Report and Recommendation;
- 6/22/87 letter from John Hedland;
- 6/23/87 letter from Debra Dushkin, Sand Point resident;
- 6/23/87 letter from Dick Jacobson, President of Shumagin Village Corporation;
- 6/23/87 letter from Jack Foster, Mayor, City of Sand Point;
- 6/24/87 letter from Reeve Aleutian Airways, Inc.;
- 6/24/87 memorandum from Nelda Warkentin; department planning supervisor;
- 6/24/87 letter (to Dan Bockhorst) from Julia Bockman, Attorney representing Bristol Bay Native Corporation;
- 6/24/87 letter (to Local Boundary Commission) from Julia Bockman;
- 6/25/87 letter from Wayne Lewis, Acting Land Director, The Aleut Corporation;

- 6/25/87 letter from Lamar Cotten, City Administrator, City of Sand Point;
- Resolution Number 87-15 of the City of Chignik;
- 6/25/87 memorandum from Dan Bockhorst offering comments of Justine Gundersen;
- 6/25/87 memorandum from Dan Bockhorst offering comments of Chuck Martinsen;
- 6/26/87 letter from Sam Fortier, attorney representing Bay View, Incorporated;
- 6/26/87 letter from Sam Fortier, attorney representing Oceanside, Incorporated;
- 6/26/87 letter from Sam Fortier, attorney representing the Alaska Peninsula Corporation;
- 7/1/87 letter from Stephen R. Braund & Associates;
- 7/2/87 letter from Lamar Cotten with attachments;
- 7/2/87 letter from Alaska Federation of Natives, Inc.;
- 7/2/87 letter from Samuel Fortier;
- 7/2/87 letter from Samuel Fortier;
- 7/7/87 letter from James L. Baldwin, Assistant Attorney General, State of Alaska.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. POPULATION OF THE AREA

Section 29.05.031(a)(1) of the Alaska Statutes requires, as a standard for borough incorporation, that the population of the area be interrelated and integrated as to its social, cultural and economic activities, and that it be large and stable enough to support borough government.

According to regulatory standards for incorporation, (19 AAC 10.160(1) and (4)), there must be "at least 1,000 people located within the area" and the area must include "at least two separate communities."

a. Size of the Population

The petition for incorporation indicates that the region's population totals 2,017. The majority of these residents are located in the communities of Sand Point, King Cove, Cold Bay, Akutan, Nelson Lagoon and False Pass. State population estimates and Federal decennial census figures generally support this estimate. No question exists that the population of the area exceeds the required minimum of 1,000 residents. Therefore, the commission finds that the minimum population standard established under provisions of 19 AAC 10.160(4) is met and that the area proposed for incorporation possesses a population large enough to support borough government.

b. Stability of the population

Available census data suggests that the region possesses a relatively stable core group of residents. It appears that there has been a tendency for the population of the region to concentrate in the larger communities in recent years. Therefore, the commission finds that the area proposed for incorporation possesses a population stable enough to support borough government.

c. Number of Existing Communities

Regulations require that there be at least two separate communities within the region proposed for incorporation as a borough [19 AAC 10.160(1)]. The region includes the communities of King Cove and Sand Point (first class cities); Akutan and Cold Bay (second class cities); and Port Moller,

Nelson Lagoon and False Pass, (unincorporated communities). Therefore, the commission finds that the requirement of 19 AAC 10.160(1) is met.

d. Social, Cultural and Economic Characteristics of the Region's Population

The indigenous people of the region share a history and culture. The Russian Orthodox religion is shared by many of the Aleut people residing in the region. Relatively recent events of social and cultural significance include the forced relocation of the Aleut residents of Akutan during World War II, the transition from a primarily subsistence based economy to a primarily cash based economy over the past thirty years and the manifold changes which have occurred as a consequence of the passage of the Alaska Native Claims Settlement Act in 1971. The formation of city governments in four of the communities located within the area proposed for incorporation during the past forty years has also been a cause and an effect of the region's recent social and cultural evolution.

The fact that the area has traditionally been regarded as interrelated as well as socially and culturally integrated is supported by the regional governmental, educational and economic organizations which serve the area proposed for incorporation. For example, all of the permanent communities within the region are within the boundaries of the ANCSA Aleut Corporation, the Aleutians East CRSA and the Aleutian REAA.

Thus, the commission finds that the population of the area proposed for incorporation is interrelated and integrated as to its social, cultural, and economic activities.

e. Social, Cultural and Economic Characteristics of the Users of the Territory East of the Common Eastern Boundary of the Aleutians East CRSA, the Aleutian Region REAA and the Aleut Corporation

The commission received substantial comments objecting to the extension of the boundaries of the proposed borough beyond the common eastern boundary of the Aleutians East CRSA, the Aleutian Region REAA and the Aleut Corporation (hereinafter referred to as the common eastern boundary). Among the reasons stated as objections to the inclusion of the area beyond the common eastern boundary was that ownership, historic cultural ties and current use of the land was predominately linked to residents of the Bristol Bay/upper peninsula region rather than residents of the proposed borough. Such considerations included subsistence activities, native allotments, historic sites, and lands owned by village corporations.

To the extent that the standard for borough incorporation concerning the population of the area also relates to the determination of boundaries of the proposed borough, the commission considered the social, cultural and economic characteristics of the "population" within the proposed borough but beyond the common eastern boundary. Because this area is believed to be uninhabited, "population" was defined to include users of the area.

In acting on this matter, the commission was very deliberate in its intention to avoid establishment of a boundary which would clearly necessitate change in the event of the subsequent incorporation of a borough immediately to the east.

With respect to commercial fishing activities, the commission acknowledged that the offshore waters in the area of concern on the north side of the Alaska Peninsula (along Stroganof Point)

are predominately used by commercial salmon fishermen who reside within the proposed borough. This area, as well as most of the rest of the area within the proposed borough, is part of the Alaska Department of Fish and Game Salmon Management Area M during the predominant commercial harvest of salmon. With the exception of Akutan, all of the communities of the proposed borough are included in Management Area M. Although Akutan lies outside the Management Area, its fishermen generally serve as crews on boats in the area.

Port Heiden, which is also within Salmon Management Area M, was not included in the boundaries proposed by the petitioners. The principal rationale for the exclusion is that residents of Port Heiden have greater cultural and social ties to areas outside the territory proposed for incorporation. As such, the northeastern boundary of the proposed borough conforms approximately to the eastern boundary of the Ilnik Section of Salmon Management Area M [5 AAC 09.200(a)(3)].

The commission also acknowledged that the area on the south side of the Alaska Peninsula (Stepovak Bay) is, for commercial salmon fishing activities, used exclusively by residents of the proposed borough. The southeastern boundary proposed by the petitioners includes all of Stepovak Bay, but excludes the unincorporated communities of Ivanof Bay and Perryville. The rationale here is similar to the rationale concerning the proposed northeastern boundary. Alaska Department of Fish and Game data indicate that Stepovak Bay is fished exclusively by Area M fishermen. Residents of Ivanof Bay and Perryville fish other management areas.

These waters offshore of Strogonof Point and Stepovak Bay are understood to be significant with respect to the financial viability of the proposed Aleutians East Borough. The commission acknowledged, of course, that current formulas for sharing State business fisheries taxes with municipalities could change in the future. However, there appears to be enough resources available to the area from which other forms of municipal revenue may be derived.

The commission also discussed cultural and social uses of this land and water area. Consideration was given to the historic and current use of the land and the impact that borough incorporation would have on current land use. Land ownership and development in the area were also discussed. The importance of linking the offshore area with the uplands was also considered by the commission.

A motion by the commission to amend the boundaries of the proposed borough to delete all of the uplands east of the common eastern boundary was considered by the commission. The reason the motion was considered was the contention that the uplands beyond the common eastern boundary were predominately linked to residents of the Bristol Bay/upper peninsula region rather than residents of the proposed borough. However, because of the importance of the water area to the financial viability of the proposed borough and the importance of linking the water with the uplands, the motion was defeated by a vote of three to one. Commission member Dave Hanson cast the one vote in support of the proposed amendment.

Thus, the commission finds that the social, cultural and economic characteristics of the users of the territory east of the common eastern boundary do not warrant exclusion of this territory from the proposed borough.

f. Social, Cultural and Economic Characteristics of the Users of Unalqa Island and the Baby Islands

The commission understands that the land on the islands is predominately owned by the Akutan Village Corporation and that residents of Akutan use the islands for subsistence purposes. The commission is aware of concerns expressed by the City of Unalaska that residents of Unalaska also use these islands for subsistence purposes. The City of Unalaska also expressed concern that to include these islands and the adjacent waters would place the boundary of the borough within six miles of the boundary of the city.

The commission finds that proximity of the borough's boundary to the boundary of the city which would result from the inclusion of these islands and adjacent waters would not adversely affect the City of Unalaska. The commission further finds that based upon land ownership and land use activities, it is appropriate to include the subject area within the boundaries of the proposed borough.

CONCLUSION OF LAW

Given the above findings of fact, the commission concludes that the population of the area proposed for incorporation, (including on the west, the territory to a line extending southerly mid-line between Unalga and Sedanka Islands) is interrelated and integrated as to its social, cultural, and economic activities, and is large and stable enough to support borough government. Thus, the standards set out in law for incorporation of boroughs which relate to population are satisfied.

2. TRANSPORTATION FACILITIES

Section 29.05.031(a)(4) of the Alaska Statutes imposes as a standard for borough incorporation that the land, water and air transportation facilities allow the communication and exchange necessary for the development of integrated borough government.

Regulatory standards for borough incorporation, [19 AAC 10.160(2)] provide that "transportation services (must be) available at least once a week between communities located within the area on a regularly scheduled or charter basis, or communities located within the area which do not have regularly scheduled transportation services (must be) connected by a highway system."

a. Air and Water

According to the Aleutians East Conceptually Approved Coastal Management Plan, (July, 1985) the region depends entirely on air and water transportation. Supplies are shipped to the region via air or marine transport. "Most local fishery resources are shipped to market, though some are air freighted. Despite the dependence on air transport, all the region's air facilities are inadequate except at Cold Bay. Sand Point and King Cove have satisfactory harbor facilities, but they are overcrowded, and expansion is a major priority." In fact it appears that future economic development depends largely on improvement of existing and new transportation facilities.

Reeve Aleutian Airways provides scheduled air service throughout the region. It utilizes both turboprop and jet aircraft and has seasonal schedules. It flies regularly to Sand Point and Cold Bay and contracts with Peninsula Airways in Cold Bay, to provide connecting service to King Cove and False Pass. Additionally, Peninsula Air offers charter service to locations within the region and from points within the region to other areas of the state.

Thus, the commission finds that transportation services are available at least once a week between all communities located within the area on a regularly scheduled or charter basis and that the standard set out in 19 AAC 10.160(2) has been met.

b. Telecommunications

The LBC has determined that telecommunication technology and capability within the region should also be considered in examining this standard. In conducting its hearing on June 26, 1987, the commission had the opportunity to view first hand the telecommunications capability within the region. The commission finds that the current availability of telecommunications within the area proposed for incorporation is such that it enhances the communication and exchange necessary for the development of integrated borough government.

CONCLUSION OF LAW

Given the above findings of fact, the commission concludes that the telecommunications capabilities and the land, water and air transportation facilities allow the communication and exchange necessary for the development of integrated borough government. Thus, the standards set out in law for incorporation of boroughs which relate to transportation are satisfied.

3. ECONOMY

Section 29.05.031(a)(3) of the Alaska Statutes imposes as a standard of borough incorporation that the economy of the area include the human and financial resources capable of providing municipal services. The law provides further that the evaluation of the economy must include land use patterns, property values, total economic base, total personal income, resource and commercial development, and anticipated functions, expenses and income of the proposed borough.

State regulations also require a determination as to whether there are sufficient anticipated revenues to maintain and operate, at a minimum, the mandatory powers of the proposed borough government [19 AAC 10.160(3)] and whether the proposed borough is capable and willing to provide mandatory powers within three months of incorporation [19 AAC 10.170].

a. Land Use Patterns

The major private land owners in the region are the Aleut Regional Corporation and village corporations established through ANCSA. This act provided that the Aleut Regional Corporation receive the subsurface estate of village corporation land. The Aleut Corporation is entitled to some 1,450,763 village subsurface acres. Approximately half of this acreage is in the Aleutians East Region. Entitlements of village corporations based within the proposed Aleutians East Borough total several hundreds of thousands of acres. Village corporations based outside the proposed Aleutians East Borough also have entitlements of several thousands of acres within the proposed borough.

It should be noted here again that the area proposed for incorporation includes seven communities and 2,017 residents. Land ownership and use activities within these seven communities is typical of many rural communities throughout the state.

Thus, the commission finds that the land ownership and land use patterns are comparable to other rural areas of the state which are organized as regional municipalities. The commission also finds that the land use patterns in the area proposed for incorporation reflect a regional unity and these patterns would not diminish the borough's ability to exercise municipal jurisdiction. These lands are found to be in need of and capable of supporting the provision of municipal services.

b. Economic Base

Clearly, the world class fisheries resources in the general vicinity of the region provide the economic foundation of the area. Data compiled by the Institute of Social and Economic Research (ISER, Nabesky, et al. 1983), indicate that the area's economic base is ample enough to support a borough government. This data suggest that in 1980 the fishing industry accounted for nearly 60% of the total full-time equivalent jobs in the region. It is expected that bottomfishing will expand the fishing industry into a year-round enterprise, thereby enhancing and stabilizing the local economy of the region, and hence the economic viability of the proposed borough.

Thus, the commission finds that the economy of the area is strong and is considered suitable for the support of municipal government.

c. Property Values

The current estimated combined value of real and personal property within the territory proposed for incorporation is \$124,037,500. Of the total reflected in this estimate, all but \$25,000,000 is in King Cove or Sand Point. Therefore, the estimated \$99,037,500 combined real and personal property valuation within the two first class cities represents a per capita average combined real and personal property tax value of \$68,776.04 in each of those communities. The estimated \$25,000,000 combined real and personal property value within the remainder of the area proposed for incorporation represents an estimated per capita valuation of \$43,327.55.

When compared with per capita real and personal property valuations of existing regional municipalities, the valuation appears approximately equivalent to most. The proposed Aleutians East Borough per capita values for real and personal property valuation is the median for all regional governments in the State of Alaska.

Thus, the commission finds that the property values of the area are considered suitable for and capable of supporting the proposed borough.

d. Personal Income

Federal census data (1980) and estimates provided by the petitioners of 1980 average family (household) income in the area proposed for incorporation are as follows:

COMMUNITY	1980 FEDERAL CENSUS	PETITIONERS' ESTIMATE
Sand Point	\$86,248	\$47,951
King Cove	\$30,924	\$37,533
Cold Bay	\$32,391	\$37,247
False Pass	\$34,226	\$30,396
Akutan	\$ 5,326	\$ 5,833
Nelson Lagoon	\$ 7,082	NA

The federal census data indicate that aggregate income in each of the six communities listed above totaled \$15,954,870 in 1980. The data indicate further that 310 families lived in these communities. Based upon this information, the average family income in the region in 1980 was \$51,467. This compares to a statewide average family income of \$32,688 (1980 federal census). Thus, the commission finds that the personal income of the area residents is considered capable of supporting the proposed borough.

e. Resource and Commercial Development

Nearly all of the resource and commercial development which has occurred in the region has been directly related to harvesting and processing the area's fish. The area appears to have the potential for a more diversified economy based upon extraction of minerals, oil and gas.

Thus, the commission finds that the level of resource and commercial development within the region, when compared with other Alaska boroughs, appears to be adequate to support borough government.

f. Anticipated Functions, Revenues and Expenses

Anticipated functions

Initially, the borough will exercise only the three powers required by law of regional municipalities (education, tax collection and planning).

Projected Revenues

The petition for incorporation projects the following operating revenues for the first year of operation:

State Organizational Grant	\$ 300,000
State Municipal Assistance	17,550
State Revenue Sharing	42,778
State Coastal Management Grant	50,000
State Raw Fish Tax	421,000
Other State Shared Taxes	7,000
Borough Sales Tax (2%)	<u>712,000</u>
Total	\$1,550,328

Upon examination, the LBC considers that the revenues estimated in the petition are generally accurate and reasonable. The following notations provide insight to this conclusion.

- Organizational Grant: Under existing statutes, (AS 29.05.190) there exists provision for borough organizational grants of \$300,000 for a newly incorporated borough's first full or partial fiscal year, \$200,000 for the borough's second fiscal year and \$100,000 for the borough's third fiscal year. The petitioners have reflected anticipation of this organizational grant funding (\$300,000) in their proposed budget. However, the First Session of the Fifteenth Alaska Legislature did not allocate funding for organizational grants to any boroughs which may incorporate during FY'88. If the borough incorporates, the department will seek a supplemental appropriation to fund this obligation. It does not appear that such funding will be available to the borough immediately upon incorporation.

- ° State Municipal Assistance: Funds under this program are expected to be distributed after June 1, 1988.
- ° State Coastal Management Grant: The petitioners anticipate Coastal Management Program funding. It is likely that FY 88 funds for the region will be transferred to the borough upon assumption of planning powers. The petitioners' estimate of the level of funding is considered to be conservative.
- ° State Revenue Sharing: Program funds will not be distributed to the borough until the fiscal year beginning July 1, 1988.
- ° Fisheries Business Tax Refunds: The estimate of \$421,000 for a full year appears to be conservative. However, initial distribution of funds under this program will not be made to the borough until after July 1, 1988, and then only for the tax revenues collected during calendar year 1987 (likely to be November and December only). Thus, the estimate contained in the budget, as it relates to the initial twelve months, is considered to be overstated.
- ° Other State Shared Taxes: The commission has reviewed this estimate and believes that it is a reasonable estimate for a full twelve month period.
- ° Borough Sales and Use Taxes: The petitioners have estimated revenues from proposed 2% sales and use taxes to total approximately \$712,000. This would exempt all transactions except raw fish. Since commercial fishing in the proposed borough is largely a year-round activity, tax revenues collected under this measure will accrue immediately upon implementation of the taxes. Implementation of the taxes would require voter approval of a referendum granting the power to tax, as well as the adoption of an ordinance by the assembly levying the tax. The petitioners' estimate of tax revenues, assuming the tax is levied, appears to be even more conservative than the petitioners' estimate of business fisheries tax revenues.

In the event a sales and use tax is not levied, the commission notes that the borough could generate revenue equivalent to that projected to be raised by the sales and use tax through a 5.7 mill tax on real and personal property. This calculation is based upon the estimated \$124,037,500 in taxable property within the area proposed for incorporation. The commission recognizes, however, that the administration of a property tax would increase somewhat the anticipated operating expenses of the proposed borough.

The commission notes that transition delays inherent in most of the sources of revenue will cause the borough to rely principally upon the proceeds from its proposed sales and use taxes (if levied) and the Coastal Management Program grant to fund its initial operations.

Projected Expenses

The petition for incorporation projects the following operating expenses for the first year of operation.

Assembly	\$ 179,500
Mayor	293,800
Administration & Finance	150,500
Dept. of Community Affairs	171,900
Dept. of Law	82,500
Dept. of Education	100,000
Capital Improvement/Reserve	<u>574,120</u>

Total \$1,552,320

Here again, the commission believes that the expenses estimated in the petition are generally accurate and reasonable. When comparing the anticipated expenditures of the proposed borough with those of existing boroughs having similar size populations and/or similar geographic locations, the commission considers the Aleutians East Borough budget to be reasonable.

The following is a further examination of the budget offered in the petition.

- Department of Education: The petition states that the cost of education will be \$100,000. This reflects the cost of consolidating all or portions of three separate school districts into one district. This transition effort would begin immediately upon incorporation and would be concluded by July, 1988. Exercise of education powers in the sense of directly teaching students is scheduled to begin when the schools in the borough start the school year in the fall of 1988.

The total cost of providing education within the area proposed for borough incorporation is approximately \$3.4 million yearly. Existing state law (AS 14.17.210) provides that:

A regional educational attendance area school which becomes a city or borough district school is considered a regional educational attendance area school for purposes of financial support until the expiration of a complete fiscal year after the date on which the school becomes a city or borough school district . . .

Chapter 91, SLA 1987, requires a local contribution toward education by municipal school districts. However, the burden of providing a significant local contribution toward education would not be assumed by the newly formed Aleutians East Borough until July 1, 1989. Given the projections for and capabilities of generating revenue, the anticipated costs of the local contribution toward education could be readily supported by the borough.

- Legislative, Administrative and Contingency: The petitioners have budgeted \$706,300 to support legislative and administrative functions of the borough. Based upon budgeted expenditures for similar boroughs with similar functions, these estimates appear reasonable.

- Community Capital Improvement/Reserve Account: The petitioners have also budgeted \$574,120 in this account. Since the borough's powers are to be limited to education, planning and tax collection, it is understood that there will be little in the way of expenditures for community capital improvements during the first 12 months of operation. Thus, the petitioners have budgeted a

contingency fund amounting to nearly 60% of other total estimated expenditures.

- ° Department of Community Affairs: This component will provide the planning services of the borough. Activities include the functions presently being exercised by the Aleutians East CRSA, and the Regional Strategy Board. The estimated expenditure of \$171,900 for this category is considered to be reasonable.

Thus, the commission finds that the anticipated functions, revenues and expenses of the proposed Aleutians East Borough are reasonable and adequate to support operation of the proposed borough.

CONCLUSION OF LAW

Given the above findings of fact, the commission concludes that the economy of the area includes the human and financial resources capable of providing municipal services and satisfies the standards for incorporation imposed by law which relate to the economy of the area.

4. SCHEDULE FOR ASSUMPTION OF POWERS

The following provisions of law pertain to the formation of a new borough and the integration of both existing service areas and relevant powers of existing cities into the borough.

AS 29.05.130 provides that "a service area in a newly incorporated municipality shall be integrated into the municipality within two years after the date of incorporation."

AS 29.05.140 provides that "the powers and duties exercised by cities and service areas that are succeeded to by a newly incorporated municipality continue to be exercised by the cities and service areas until the new municipality assumes the powers and functions which may not exceed two years after the date of incorporation."

19 AAC 10.170 provides that "the commission will not approve an incorporation unless the petitioners demonstrate to the satisfaction of the commission that the proposed borough is capable of providing and willing to provide the mandatory powers of an organized borough within three months of incorporation."

The mandatory powers of a second class borough, which are the only powers to be initially assumed by the Aleutians East Borough, consist of areawide education, administration of taxes, and planning.

- ° Education powers: will be assumed upon incorporation. A 1963 opinion of the Alaska Department of Law relating to a former law similar to the existing law, *concluding that ownership of state-operated schools had to be transferred to the state by the local school district after incorporation.* The opinion *transfer of direct administration of be made shortly after incorporation, of the next fiscal year and as quickly with continuity of operation and efficient management.*

The Aleutians East Borough petition states that "educational responsibilities would be assumed in FY 89." The borough would begin the transition to assume this power immediately upon incorporation. From a practical perspective, it appears to be extremely difficult to effect an orderly transfer of education powers from the REAA to the newly incorporated borough sooner than July 1, 1988. The supplemental brief of the petitioners stated that:

this [transfer] shall entail the transfer of municipal and REAA assets to the Borough. Liabilities, including teachers and administrators contracts will be also assumed at that time (sic). The specific details of this transfer will be the responsibility of the School Board and the Assembly.

- ° Assessment and collection of taxes: The borough will exercise its power to assess and collect taxes upon establishment of an areawide sales tax as provided in AS 29.45.650. The tax proposed in the petition would, if enacted, be imposed only upon sales and importations of raw fish (all other activities would be exempt from taxation). The petitioners have expressed an intention not to promote imposition of a borough property tax. However, in the event the sales tax is not approved by the voters, it would appear necessary for the borough to levy a property tax. As a matter of law, a second class borough possesses the authority to levy a property tax. Thus, the borough could begin immediately to exercise this power if necessary.
- ° Planning, platting and land use regulation: will be exercised on a "regional wide basis" upon incorporation. To the extent possible, exercise of these powers will remain at the local municipal level or involve maximum "advice and guidance" of local residents of unincorporated communities in the region. While these functions are "mandatory areawide" powers of a second class borough, state law permits delegation of the powers of planning, platting and land use regulation to any city within a borough.

Thus, the commission finds that the schedule for transfer of education responsibilities, and the initiation and/or transfer of the powers of taxation and planning, platting and land use regulation is reasonable.

CONCLUSION OF LAW

Given the above finding of fact, the commission concludes that the schedule for transfer of education responsibilities and the initiation and/or transfer of the powers of taxation and planning, platting and land use regulation substantially satisfies the requirements of AS 29.05.130, AS 29.05.140, and 19 AAC 10.170.

5. BOUNDARIES

Section 29.05.031(a)(2) of the Alaska Statutes imposes as a standard for incorporation of a borough that the boundaries of the proposed borough conform generally to the natural geography and include all areas necessary for full development of municipal services.

In addition to this specific statutory provision, the other standards for borough incorporation set out in AS 29.05.031,

particularly the standard relating to the population of the area, influence the determination of boundaries.

Objective criterion relevant to the determination of the boundaries is also provided in 19 AAC 10.160(5). Specifically:

The area should include, at a minimum, one entire REAA unless the commission determines that a smaller area can otherwise meet borough government standards for incorporation.

a. Size relative to other boroughs

The territory within the proposed Aleutians East Borough boundaries exceeds that within the boundaries of 10 of the existing 12 regional municipal governments. The only Alaska regional municipal governments larger than the approximately 27,022 square miles reflected by the petitioners' legal description would be the North Slope Borough and the Northwest Arctic Borough. However, the proposed borough's jurisdiction with respect to offshore areas is limited by the state's offshore jurisdiction (AS 44.03.010). Therefore, the actual boundaries of the proposed borough include 15,405 square miles (including Unalga Island and the Baby Islands).

b. Other Established Boundaries

As was noted earlier, the territory which the petitioners propose to incorporate does not conform totally to any existing boundaries, including the Aleutian Region Educational Attendance Area, the Aleut Regional Corporation, and the Aleutians East Coastal Resource Service Area.

It should be noted that of the twelve regional municipal governments which exist in Alaska, four transcend two or more Native Regional Corporations formed under ANCSA. The boundaries of the four regional municipalities were determined prior to the establishment of Native Regional Corporation boundaries under ANCSA. However, once established, municipal boundaries can be modified. In addition to the relationship between existing regional municipalities and ANCSA regional corporations, seven regional educational attendance areas transcend two or more Native regional corporations formed under ANCSA.

The boundaries of the coastal resource service areas and regional educational attendance areas were formed according to a political process established by law. The Alaska Department of Law has noted that the superior provisions of the state constitution and implementing statutes require that these earlier political decisions give way to the commission's judgment concerning the organization of a new municipal government.

State regulations, 19 AAC 10.160(5), clearly provide that conformance with REAA boundaries (and by inference, other boundaries upon which REAAs are based or which are based upon REAAs) is not necessary if the commission determines that another area can otherwise meet borough government standards for incorporation. Thus, there is no requirement or compelling precedent to make borough boundaries conform precisely to other existing boundaries.

Therefore, the commission finds that while the boundaries of such entities should be considered as evidence relating to the population, geography, economy and other factors which form the standards for incorporation of boroughs, these boundaries are

not considered sacrosanct with respect to the determination of the boundaries of the proposed Aleutians East Borough.

c. Area to the East of the Regional Corporation, REAA and CRSA

As was discussed earlier, the area proposed for incorporation by the petitioners includes apparently uninhabited and largely undeveloped areas beyond the eastern boundary common to the Aleut Regional Corporation, the Aleutians REAA and the Aleutian East CRSA. Together these areas comprise approximately 858 square miles. More specifically, the areas are comprised of approximately 211 square miles of land and 647 square miles of water. It is estimated that only approximately one-third of this water area lies within the state's jurisdiction. As was noted in some detail earlier, the commission found that the social, cultural and economic characteristics of the users of the territory east of the common eastern boundary do not warrant exclusion of this territory from the proposed borough.

The petitioners state that it is necessary to include these areas in the proposed borough to ensure that the bays and streams within the region's economic zone fall under the borough's jurisdiction.

The commission notes further that inclusion of this area is of significance to the financial viability of the proposed borough. Evidence presented to the commission shows that the area on the north side of the Peninsula (Ilnik and Three Hills fishing districts) alone accounts for 20% to 30% of the total value of the sockeye salmon harvest of Management Area M. According to Dr. Steve Langdon of the University of Alaska, a nationally recognized expert in anthropology and fisheries resources, this area has historically been a part of the commercial fisheries associated with the Aleutians East Region.

Financial viability of the proposed area for incorporation does not outweigh other standards for incorporation. However, great care was taken by the commission to assure that during these times of uncertain state support for municipalities, the proposed borough could adequately support its functions. Thus, the commission finds that the subject area is necessary for full development of municipal services by the Aleutians East Borough.

d. Natural Geography

The western boundaries include all of Unalga Island and the Baby Islands. The eastern boundaries include Stepovak Bay on the south side of the Peninsula and most of Strogonof Point (to the land terminus of the NW corner T38S, R60W, Seward Meridian) on the north side of the Peninsula. The boundaries follow township and range lines on the land to facilitate describing the boundaries of the proposed borough. To the north and south, the boundaries of the proposed borough are limited to the areas included within the state's jurisdiction.

Thus, the commission finds that the boundaries proposed by the petitioners, with the addition of Unalga Island and the Baby Islands, conform generally to the natural geography.

CONCLUSION OF LAW

Given the above findings of fact, the commission concludes that the boundaries proposed by the petitioners (including Unalga Island and the Baby Islands) conform generally to the natural geography, include all areas necessary for full development of municipal services and support the other standards for borough

incorporation previously discussed. Thus, the standards for incorporation imposed by law which relate to the boundaries of the area are satisfied.

6. TAX REFERENDUM

The petition for incorporation contains clear and unambiguous notice that the proposed second class borough would assume the power to levy an areawide sales and use tax on raw fish in the amount of 2%. The authority to levy the tax requires voter approval (AS 29.45.670). The provisions of AS 29.05.110(c) specifically authorize the simultaneous submittal to the voters of the question of incorporation and the approval of the assumption of areawide powers. Thus, it would appear that a referendum necessary to authorize the borough to levy a sales and use tax could be included on the incorporation ballot.

An interested party appearing before the commission has objected to any simultaneous assumption of the sales and use tax power. The party argues that there must be a strict adherence to the provisions of AS 29.45.670 by first requiring the new assembly to adopt a tax ordinance and then referring it to the voters.

The commission finds that a strict adherence to AS 29.45.670 as suggested by the interested party would exalt form over substance. The cost to the municipality of holding an additional election and the delay occasioned by waiting for the election to be held warrants a procedure which consolidates the electoral process.

The commission further finds that it is in the best interest of the residents of the proposed borough to maximize awareness and understanding of the questions to be asked on the incorporation ballot. The way to accomplish this is to have separate questions on the proposed incorporation of the borough and the authorization to levy the proposed sales and use tax.

CONCLUSION OF LAW

Given the above findings of fact, the commission concludes that it is appropriate to refer to the voters of the proposed borough, as a separate question on the incorporation ballot, the matter of the proposed levy of the 2% sales and use tax on raw fish.

7. APPORTIONMENT

A resident of the territory proposed for incorporation has expressed concern that the apportionment plan set out in the petition for incorporation may be unfair. This individual has indicated a belief that the population of Cold Bay (election district 3) is substantially less than the 250 residents claimed in the petition. Therefore, this individual suggested that a more equitable apportionment plan might result from the consolidation of election districts 3 and 4.

The commission notes that the population estimates included in the petition were obtained from a 1986 memorandum issued by the department relating to the proposed inclusion of Akutan in the Aleutians East CRSA. Further, the population of Cold Bay stated in the petition conforms precisely to the figure certified for Cold Bay by the department for purposes of the current fiscal year State Revenue Sharing program.

While variations of the numbers of residents per elected representative do exist within the proposed election districts,

differences in the social and economic characteristics of these districts may justify those variations.

Thus, the commission finds that the apportionment plan set out in the petition does not cause a failure to satisfy the standards for borough incorporation set out in the law.

DECISION AND ORDER

Based upon the findings of fact and conclusions of law stated above, the commission approves the petition for incorporation of the Aleutians East Borough with the amendment of boundaries to include the territory to a line extending southerly mid-line between Unalga and Sedanka Islands. The boundaries of the territory approved for incorporation are as follows:

All of that territory along the Alaska Peninsula and the Aleutian Chain lying:

1) west of a line beginning at the point of intersection of 57° 00' North Latitude and the extension of a line due north from the NW corner T38S, R60W, Seward Meridian (SM); thence due south to the NW corner T40S, R60W, SM; thence west to the NW corner T40S, R61W, SM; thence south to the SW corner T40S, R61W, SM; thence west to the NW corner T41S, R63W, SM; thence south to the NW corner T42S, R63W, SM; thence west to the NW corner T42S, R65W, SM; thence south to the NW corner T43S, R65W, SM; thence west to the NW corner T43S, R67W, SM; thence south to the SW corner T44S, R67W, SM; thence east to the NW corner T45S, R67W, SM; thence south along the line separating R67W and R68W, SM to the SW corner of T48S, R67W, SM; thence west to the NW corner of T49S, R68W, SM; thence south to the NE corner of T50S, R69W, SM; thence east to the NE corner of T50S, R67W, SM; thence south along the line separating R66W and R67W, SM, to the land terminus of the line separating R66W and R67W, SM, on the Kupreanof Peninsula at approximately 55° 38' 22.296" North Latitude, thence due east to the intersection with 159° 00' West Longitude; thence southerly along 159° 00' West Longitude to 54° 00' North Latitude; and

2) east of a line mid-channel through Unalga Pass, extending northerly mid-line between Unalga and Unalaska Islands and extending southerly mid-line between Unalga and Sedanka Islands;

With respect to the water areas, the boundaries of the Aleutians East Borough extend to the limits of the State's jurisdiction under AS 44.03.010. The territory described above contains 15,405 square miles, more or less, all in the Third Judicial District, State of Alaska.

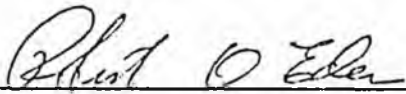
THEREFORE, IT IS ORDERED:

1. That the department of community and regional affairs notify the Alaska division of elections of the approval of the petition in order that it may schedule and conduct an election for the incorporation of the proposed Aleutians

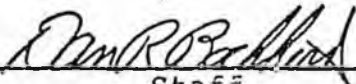
East Borough. The incorporation ballot shall have a separate proposition authorizing the borough to levy an areawide 2% sales and use tax upon raw fish. Incorporation of the borough is not conditioned upon voter approval of the sales and use tax referendum.

2. If the voters approve the incorporation of the borough, the department is directed to consult with the new borough to determine whether the apportionment plan established in the petition for incorporation and implemented under the provisions of AS 29.20.060(b) is fair and equitable. If such a determination cannot be made, the department is directed to assist the borough in the development and implementation of a plan which is fair and equitable.

ADOPTED BY THE LOCAL BOUNDARY COMMISSION OF THE STATE OF ALASKA THIS 24th DAY of JULY, 1987.


Robert O. Eder, Chairman

ATTEST:


Staff

ORDER AND NOTICE OF INCORPORATION ELECTION
PROPOSED ALEUTIANS EAST BOROUGH

Notice is hereby given that pursuant to the provisions of AS 29.05.110, an election will be held in the communities within the boundaries of the proposed Aleutians East Borough on October 6, 1987 to determine:

- (1) THE VOTERS' DESIRE TO INCORPORATE A SECOND CLASS BOROUGH;
- (2) THE VOTERS' AUTHORIZATION OF THE LEVY OF A 2% SALES AND USE TAX ON RAW FISH; AND,
- (3) IF INCORPORATION IS APPROVED, THE ELECTION OF A MAYOR AND THE INITIAL SEVEN (7) PERSON ASSEMBLY MEMBERS.

The election will be held on October 6, 1987 and will be under the administration and supervision of the Director of Elections. The proposed second class borough is to be named Aleutians East Borough and is described as follows:

All of that territory along the Alaska Peninsula and the Aleutian Chain lying:

1) west of a line beginning at the point of intersection of 57 degrees 00' North Latitude and the extension of a line due north from the NW corner T38S, R60W, Seward Meridian (SM); thence due south to the NW corner T40S, R60W, SM; thence west to the NW corner T40S, R61W, SM; thence south to the SW corner T40S, R61W, SM; thence west to the NW corner T41S, R63W, SM; thence south to the NW corner T42S, R63W, SM; thence west to the NW corner T42S, R65W, SM; thence south to the NW corner T43S, R65W, SM; thence west to the NW corner T43S, R67W, SM; thence south to the SW corner T44S, R67W, SM; thence east to the NW corner T45S, R67W, SM; thence south along the line separating R67W and R68W, SM to the SW corner of T48S, R67W, SM; thence west to the NW corner of T49S, R68W, SM; thence south to the NE corner of T50S, R69W, SM; thence east to the NE corner of T50S, R67W, SM; thence south along the line separating R66W and R67W, SM, to the land terminus of the line separating R66W and R67W, SM, on the Kupreanof Peninsula at approximately 55 degrees 38' 22.296" North Latitude, thence due east to the intersection with 159 degrees 00' West Longitude; thence southerly along 159 degrees 00' West Longitude to 54 degrees 00' North Latitude; and

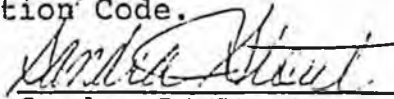
2) east of a line mid-channel through Unalga Pass, extending northerly mid-line between Unalga and Unalaska Islands and extending southerly mid-line between Unalga and Sedanka Islands; .

With respect to the water areas, the boundaries of the Aleutians East Borough extend to the limits of the State's jurisdiction under AS 44.03.010. The territory described above contains 15,405 square miles, more or less, all in the Third Judicial District, State of Alaska.

The initial assembly, if incorporation is approved, will be composed of a mayor and seven assembly members. Individuals seeking office on the initial assembly and desiring to have their name appear on the ballot must file nominating petitions. The initial mayor shall be nominated and elected by the voters areawide. Assembly members shall be nominated and elected by voters residing within the boundaries of the district in which each candidate is seeking office. Signed petitions must be filed with the Director of Elections, P.O. Box AF, Juneau, AK 99811-0105, or with the Region 3 Elections Office, 675 Seventh Avenue, Station H, Fairbanks, Alaska 99701-4594, no later than 4:30 p.m. prevailing time, on August 21, 1987. Candidates for municipal office must file Conflict of Interest Statements with the city clerk within their district.

Any person who is a qualified voter in Alaska and who has resided within the boundaries of the proposed borough for 30 days before July 20, 1987, the date of this election order, may be nominated and vote in this election. (AS 29.05.110(b)).

The election will be conducted in the general manner as prescribed by the Alaska Election Code.



Sandra J. Stout
Director
Division of Elections

Dated this 20th day of July, 1987

ALEUTIANS EAST BOROUGH

DATE: Thursday November 12, 1987
TIME: 10:00 a.m.
LOCATION: * Hill Bldg., 6th & G, Rm 508, Anchorage, Alaska

PUBLIC IS WELCOME

AGENDA

Swearing in of Assembly Members and Mayor
Call to Order
Roll Call

New Business

1. Ordinance No. 88-1/First Reading - General Provisions - Administration and election
2. Ordinance No. 88-2/First Reading - Raw Fish Tax - update
3. Ordinance No. 88-3/First Reading - Powers & Functions of Aleutians East Borough.
4. Ordinance No. 88-4/First Reading - Planning, Platting and Land use regulations.
5. Resolution No. 88-1/Municipal Assistance/Revenue Sharing
6. Participation by Nelson Lagoon and False Pass
7. Education Powers/School Board
8. Land Entitlements
9. State Transition Grant
10. Lawsuit Status
11. Executive Session
12. Public Comment

① budget
② Meeting

DEC 1

ALEUTIANS EAST BOROUGH

DATE: Tuesday, December 1, 1987
TIME: Workshop 2:00 p.m. - Meeting 7:00 p.m.
PLACE: Sand Point Municipal Building, Room 11

AGENDA

Call to Order
Minutes
Adoption of Agenda

Legislation

Assembly Term of Office

Unfinished Business

1. Ordinance No. 88-1/Public Hearing - General Provisions - Administration and election
2. Ordinance No. 88-2/Public Hearing - Raw Fish Tax - update
3. Ordinance No. 88-3/Public Hearing - Powers & Functions of Aleutians East Borough
4. Ordinance No. 88-4/Public Hearing - Planning, Platting and Land use regulations.

New Business

1. Resolution No. 88-2 - Loan from Rainier Bank Alaska
2. Resolution No. 88-3 - School Board Election
3. Ordinance No. 88-5/First Reading - Advisory Member
4. Ordinance No. 88-6/First Reading - FY 88 Budget

Update

1. Intervener Status in Law Suite
2. Land Status
3. Citizen comments
4. Executive Session