HJR

23

HOUSE COMMITTEE REPORT

(11)
Date Referred: February 15, 1989 FURTHER REFERRALS:

Date of Committee Action: 2/23/89

The FINANCE Committee considered: HJR 23

HOUSE JOINT RESOLUTION NO. 23
[DISAPPROVE KODIAK ISLAND BORO ANNEXATION]
Disapproving the Local Boundary Commission's recommendation for annexation of territory to the Kodiak Island Borough.

RECOMMENDS:

[ ] replacing with _____ [ ] the same title [ ] a new title
[ ] the attached amendment(s)
[ ] do pass
[ ] do not pass
[X] no recommendation
[ ] individual recommendations
[ ] additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):
[ ] fiscal impact
[X] zero fiscal note
[ ] zero with analysis

APPROVES PREVIOUS:
[ ] fiscal note(s) published:
[X] zero fiscal notes(s) published: 2/15/89

SIGNING DO PASS:

SIGNING OTHER THAN DO PASS:
(Do Not Pass, No Recommendation, Amend)

No Rec
No Rec
No Rec
no rec
No Rec
No Rec
No Rec
No Recommendation

Chairman's signature

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: HJR 23
PUBLISH DATE:

FISCAL NOTE

REQUEST:

Revision Date:
Title: Disapproving the Local Boundary Commission's Recommendation for Annexation
Sponsor: Jacko ...Kodiak
Requestor: House Finance

Agency Affected: Education
BRU: K-12 Support
Components: Foundation

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

HJR 23 has no impact on the Foundation program.

Prepared by: Mary Hakala
Division: Commissioner's Office
Phone: 465-2800
Date: 2/23/89

Approved by Commissioner: William G. Demmert
Agency: Education
Date: 2/23/89

Distribution (by preparer):
- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: HJR 23
PUBLISH DATE:

FISCAL NOTE

REQUEST:

Revision Date:
Title: "Disapproving the Local Boundary Commission...Kodiak Island Borough."
Sponsor: Jacko
Requestor:

Agency Affected: Community & Regional Affairs
BRU: Local Boundary Commission
Components:

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Jim Plasman

Prepared by: Jim Plasman, Deputy Director
Phone: 465-4750
Division: Municipal & Regional Assistance
Date: 2-10-89

Approved by Commissioner: Harold C. Hall
Date: 2-10-89
Agency: Community & Regional Affairs

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

RECEIVED
FEB 10 1989
LEGISLATIVE FINANCE

page 1 of 1

HJR 23

Introduced: 2/8/89
Referred: Community & Regional
Affairs and Finance

1 IN THE HOUSE BY JACKO

2 HOUSE JOINT RESOLUTION NO. 23

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 Disapproving the Local Boundary Commis-
6 sion's recommendation for annexation of
7 territory to the Kodiak Island Borough.

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

9 WHEREAS, under art. X, sec. 12, Constitution of the State of Alaska,
10 the Local Boundary Commission has presented to the legislature its rec-
11 ommendation dated January 18, 1989, entitled "Annexation to the Kodiak
12 Island Borough"; and

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

17 BE IT RESOLVED by the Alaska State Legislature that the recommendation
18 of the Local Boundary Commission dated January 18, 1989, and entitled
19 "Annexation to the Kodiak Island Borough" is disapproved.

REPORT AND RECOMMENDATION TO THE LOCAL BOUNDARY COMMISSION

(INCLUDES EXECUTIVE SUMMARY)

PETITION FOR ANNEXATION OF 12,830 SQUARE MILES TO THE KODIAK ISLAND BOROUGH AND CONSIDERATION OF THE COMPETING PETITION FOR INCORPORATION OF THE LAKE AND PENINSULA BOROUGH

PREPARED BY THE
STATE OF ALASKA
DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS
MUNICIPAL AND REGIONAL ASSISTANCE DIVISION

NOVEMBER, 1988

STEVE COWPER
GOVERNOR

DAVID G. HOFFMAN
COMMISSIONER

TABLE OF CONTENTS

EXECUTIVE SUMMARY PAGES i-vii

COMPLETE REPORT

Page

Section A. ADMINISTRATIVE AND PROCEDURAL INFORMATION

INTRODUCTION. 1
A. 1. Alaska Local Boundary Commission. 1
A. 2. Standards for Annexation of Contiguous. . Territory. 1
A. 3. Available Procedures. 3

Section B. LEGISLATIVE REVIEW METHOD OF ANNEXATION

INTRODUCTION. 4
B. 1. Legislative Review as the Most Appropriate 4
B. 2. Legislative Review Process 4

Section C. COMPETING PETITIONS

INTRODUCTION. 6
C. 1. Regulatory Standards 6
C. 2. Concurrent Borough Incorporation Petition 6

Section D. ANNEXATION PROCEEDINGS/BACKGROUND INFORMATION

INTRODUCTION. 8
D. 1. Proceedings to Date 8
D. 2. Reasons for Annexation. 9

Section E. AREA PROFILE

INTRODUCTION. 10
E. 1. Area Proposed for Annexation. 10
E. 2. Kodiak Island Borough 11

Section F. APPLICATION OF COMPETING PETITIONS STANDARDS

INTRODUCTION 12
F. 1. Ability to Better Serve the Area. 12
F. 2. Effect on Financial Viability 13
F. 3. Standards of Proposed Boundary Change . . 14

TABLE OF CONTENTS

Page

Section G. APPLICATION OF ANNEXATION STANDARDS

INTRODUCTION. 15
G. 1. STANDARD 1: Contiguous Territory. 15
G. 2. STANDARD 2: Ownership of Territory. . . . 15
G. 3. STANDARD 3: Need for Municipal Services . 15
G. 4. STANDARD 4: Future Growth and Development in Territory 16
G. 5. STANDARD 5: Health, Welfare or Safety of Residents as Affected by Territory . . 17
G. 6. STANDARD 6: Necessary Extension of Services into Territory. 18
G. 7. STANDARD 7: Benefit of Services Without Property Tax Contribution 19
G. 8. STANDARD 8: Valid Public Purpose. 19
G. 9. STANDARD 9: Capability and Willingness to Extend Municipal Services . . 20
G.10. STANDARD 10: Social, Cultural and Economic Interrelationship 20
G.11. STANDARD 11: Size and Stability of Population 20
G.12. STANDARD 12: Natural Geography. 20
G.13. STANDARD 13: Human and Financial Resources 20
G.14. STANDARD 14: Transportation Facilities . . 21

Section H. CONCLUSIONS AND RECOMMENDATIONS

INTRODUCTION. 22
I. 1. Department Conclusions. 22
I. 2. Department Recommendations. 22

Section I. EXHIBITS

EXHIBIT A: Map of Area Proposed for Annexation including contested area

EXECUTIVE SUMMARY

Proposed Annexation

The Kodiak Island Borough (KIB) is seeking expansion of its boundaries that if successful, would more than double its current territory of 9,565 square miles. The area proposed for annexation contains approximately 12,830 square miles. Of this, there are an estimated 2,130 square miles of land and approximately 10,700 square miles of water. All land areas are within State jurisdiction. However, approximately 9,014 square miles of waterways are beyond the State's current three mile jurisdictional limit.

Onshore territory consists of all those lands on the Alaska Peninsula which drain into Shelikof Strait and/or the Pacific Ocean extending from the Kenai Peninsula Borough boundary on the north to Cape Kumlik on the south. It further includes Sutwik Island, the Semidi Islands and Chirikof Island. Waterways generally consist of all of Shelikof Strait from the Kenai Peninsula Borough boundary on the north to that water area three geographical miles south of Sutwik, Semidi and Chirikof Islands (see map included as Exhibit A).

There appear to be two primary reasons for the proposed annexation. The first is to provide the Kodiak Island Borough with the jurisdictional control to address problems created by floating processors in the area proposed for annexation. These problems include solid waste disposal, loss of raw fish tax revenue and reduced on-shore fish processing. The second reason is, according to the petitioner, to provide the borough with the ability to effectively influence state and federal policy and regulatory decisions over the same area.

The subject territory contains no permanent residents but reportedly does have at least a dozen dwellings of various types. The KIB has estimated the area's taxable real property value at $5,110,000. Currently the KIB has an estimated taxable real and personal property value of $423,188,110. Thus, in terms of relative taxable value, the area proposed for annexation represents 1.2% of the total taxable value of the Borough.

The KIB levies an areawide real and personal property tax of 4.5 mills and no non-areawide tax. There are however additional taxes levied by the Borough on a service area basis. The petitioner states that there are no plans for formation of a service area in the area proposed for annexation. Given the available taxable value of the area, the area proposed for annexation then represents potential taxable real property revenue to the Borough of approximately $22,995.

Local Boundary Issues

At face value this proposed action is relatively straightforward. The area is predominantly waterway, there are no permanent residents and, according to the petitioner, it offers relatively little additional revenues to the annexing municipality. However, there are several conditions which complicate this proposed action.

1. On November 10, 1988 the Department received a petition for borough incorporation from the residents of the Lake and Peninsula School District. This petition contains all of the Alaska Peninsula lands and a substantial portion of the water proposed for annexation by the KIB. Thus, the State is facing consideration of competing local boundary actions as defined by 19 AAC 10.835 with all the attendant considerations (i.e. which municipality is best able to serve the area, the extent to which approval of either action affects the financial viability of the other municipality, and the extent to which each petition satisfies the standards for its respective action.)

2. Sutwik Island, the Semidi Islands and Chirikof Island are situated beyond the jurisdictional boundaries of any municipality but they are sandwiched between two regional governments, the Kodiak Island Borough and the Aleutians East Borough. If the Lake and Peninsula incorporation is successful, these islands will then be at the doorstep of three regional governments. They would be dangling, so to speak, as part of the unorganized borough surrounded by organized boroughs. Thus, consideration must be given to their geographical proximity to these regional governments and the practicality of their continued existence outside any municipal government.

3. There is some ambiguity regarding the perimeter of the Kodiak Island Borough. Annexation would provide the Borough the opportunity to more precisely define its jurisdictional boundaries.

Two Questions

These issues generate two questions which form the basis of the state's determination in this proposed annexation.

1. Should Sutwik Island, the Semidi Islands and Chirikof Island remain beyond the jurisdictional boundaries of any municipality?

2. Which of the competing actions serves the best interest of the state as defined by 19 AAC 10.835(d)?

Sutwik Island,
Semidi Islands and Chirikof Island

Sutwik Island, the Semidi Islands and Chirikof Island are located approximately 14 miles southeast of the Alaska Peninsula. Sutwik Island is that island nearest to the Peninsula beginning approximately 15 miles east of the mainland. The Semidi Islands begin 23 miles southeast of Sutwik Island and these nine islands extend into the Pacific Ocean in the same southeasterly direction. Chirikof Island is likewise southeast of the Semidi Islands. It is approximately 11 miles long and it is approximately 100 miles southwest of Kodiak Island. The KIB has proposed annexation of these islands. The Lake and Peninsula School District has included only Sutwik Island within its proposed borough boundaries. The Aleutians East Borough has shown no interest in any of these islands. These are uninhabited lands which appear to offer little if any taxable value or other benefit to a regional government.

Given the proximity of Sutwik Island to the Alaska Peninsula and the interest from that region for inclusion of this island within its proposed borough territory, the Department recommends its inclusion within the proposed boundaries of the Lake and Peninsula Borough. Although there appears to be no particular need for services on these islands the inclusion of such territory within other regional governments is the state is not uncommon.

The Department further recommends that the KIB annex the Semidi Islands and Chirikof Island. While the KIB has presented no compelling arguments for their inclusion within its boundaries, there appears to be no compelling reason for the islands not to be included. The KIB is willing and able to extend services to the islands (to the extent necessary). Therefore, the Department considers the annexation of these islands to be appropriate.

Kodiak Annexation of Territory
v.
Lake and Peninsula Incorporation of Territory

The larger and more complex issue in this proposed annexation concerns the fact that one existing and one proposed borough are "competing" for the same territory. There are several necessary observations which put this conflict into perspective. (For the sake of expediency, the proposed Lake and Peninsula Borough may be characterized as an existing government in the following discussion.)

1. Both governments claim that they have undisputed historical, cultural, social and economic ties to a portion of the area proposed for annexation (see map, Exhibit A). Both observe that fishermen of the area live in communities within the respective government's boundaries. The Department has not conducted extensive research into these claims, but presumes that both groups have made valid assertions. It does appear that the KIB has somewhat closer economic ties to the area since salmon caught there are processed onshore in the City of Kodiak.

2. The Department assesses both governments as capable of providing services to the area to the extent necessary. While the KIB has asserted that its coastal management plan is currently in effect and easily adapted to the area, the Department observes that the Bristol Bay Coastal Resource Service Area (BBCRSA) Coastal Management Plan is currently in effect in the area. The Lake and Peninsula Borough will provide planning services in the contested area immediately upon incorporation which include coastal management.

   The KIB states that it provides solid waste collection and disposal services on a non-areawide basis and within the City of Kodiak. It argues that as a result of recently enacted federal legislation (MARPOL effective December 31, 1988) it will be required to provide adequate receptacles at the Port of Kodiak for on-land disposal of garbage from fishing vessels. The KIB contends that it will bear the cost of an increased level of waste collection and disposal since Kodiak is the port of call for vessels frequenting the waters of the contested area. The Department observes however, that the City of Kodiak, not the Kodiak Island Borough, will actually bear the majority of the cost of whatever increase in waste collection is required as a result of MARPOL since it is the city who actually provides this service.

3. Both governments observe geographical continuity with the territory. The KIB asserts that the Aleutian Range on the Alaska Peninsula (which determines river drainage patterns) serves as a natural topographical divider for those rivers that drain into Shelikof Strait. The Strait in turn unites the rivers on Kodiak Island with these same rivers as a common drainage basin. Conversely, the proposed Lake and Peninsula Borough observes that the contested area is a portion of the Alaska Peninsula and it is an

integral part of the land mass proposed for borough incorporation, regardless of the drainage pattern of the rivers. The Department recognizes both claims as legitimate in their own right. However, the Department concludes that the Lake and Peninsula Borough's argument is somewhat more persuasive and meritorious than the KIB in this regard.

4. Finally, the contested area does hold revenue potential for the Lake and Peninsula Borough which is relatively more significant than for the KIB. First, the KIB has estimated taxable real property value in the area proposed for annexation at $5,110,000. Virtually all of this value is located in the contested area. As noted previously, this area then represents 1.2% of the total taxable value of the Borough. The Lake and Peninsula Borough has an estimated taxable real and personal property value of $32,116,000. Thus, in terms of relative taxable property value, the contested area represents 15.9% of the total taxable value of the proposed Borough.

The issue of potential revenue goes even farther than this however. Currently the KIB levies a 4.5 mill areawide property tax and no sales tax. The proposed Lake and Peninsula Borough will levy a 1% sales and use tax. Although the tax structure of the proposed borough is unknown at this time, presumably the tax will be levied at the point of fish sale, as currently implemented by at least one other borough in the state. The Alaska Department of Fish and Game in Kodiak has reported that the 1988 value of salmon caught for the mainland of the Kodiak Management Area (from Cape Douglas to Cape Kiliokak) was $13,938,400. Noting that this was an unusually large catch (30% - 50% higher than the average poundage for the area) with record prices, the Department has conservatively estimated the value of salmon in the area at $6,000,000. Since the KIB levies no sales tax, these fish offer no sales tax revenues to the KIB. However, since the Lake and Peninsula Borough will levy a 1% sales and use tax, these salmon alone represent a potential $60,000 to the new Borough. Putting this figure into relative perspective, this is 8.8% of the total local revenues for the Lake and Peninsula Borough. On the other hand this is only 1.2% of the total local revenues to be generated by the KIB. Thus, to the Lake and Peninsula Borough, the loss of sales and use tax revenue is far more significant than to the Kodiak Island Borough.

Finally, the area offers relatively little to either municipality in raw fish tax returns since the salmon are already being processed within the boundaries of the Kodiak Island Borough. The Alaska Department of Fish and Game as well as the petitioner have indicated that fish processing may occur on floating processors (there are no shorebased processors in the contested area) but it would be limited to bottomfish catcher/processors. Any raw fish tax revenues from this activity would be relatively insignificant since the bottomfish stock have been extensively harvested and there is very little activity at this point.

Thus, while the Department considers neither government infeasible if the contested area remains outside the respective jurisdictional boundaries of either one, the area is relatively more valuable to the Lake and Peninsula Borough than it is to the KIB. Therefore, the Department concludes that the Lake and Peninsula Borough's argument is definitely more persuasive and meritorious than the KIB in this regard.

Clearly, both claims to the region are meritorious in their own right. Both governments appear to meet the standards for their respective actions (see complete report for discussion of the degree KIB meets annexation standards; also see the complete report for the Lake and Peninsula Borough incorporation entitled Report and Recommendation to the Local Boundary Commission - on the Petition for Incorporation of a Lake and Peninsula Borough); both governments appear to be capable of serving the territory; and neither government would be rendered financially infeasible if the territory were located within the boundaries of the other. However, given the fact that claims are laid to the same territory by the these two regional governments under the conditions stated herein, the Department finds that the weight of evidence supports the proposed Lake and Peninsula Borough. Thus, it is the opinion of the Department that the proposed Lake and Peninsula Borough be allowed to include the contested area within its proposed boundaries.

However, because of the legitimacy of the claims on the part of both regional governments, it is also the opinion of the Department that if the Lake and Peninsula area fails to incorporate as a borough during 1989, the Local Boundary Commission should forward a legislative review annexation recommendation to the 2nd Session of the Sixteenth State Legislature that the contested area be annexed to the Kodiak Island Borough.

Recommendations

1. The Local Boundary Commission approve the annexation of the Semidi Islands and Chirikof Island and clarify the boundaries of the KIB. The boundaries of the Kodiak Island Borough would then read as follows:

> Beginning at 56° 16' 10" North Latitude, 157° 07' 40" West Longitude, thence; thence northeasterly to a point at 56° 23' 00" North Latitude, 155° 12' 00" West Longitude which is the mid-channel of Shelikof Strait; thence continuing along the mid-channel of Shelikof Strait to a point at 58° 45' North Latitude; thence northeasterly to a point three geographic miles northeasterly of the northwestern peninsula of Ushagat Island; thence continuing along a line that is three geographical miles north of Ushagat, West Amatuli and East Amatuli Islands; thence along a line that is three geographical miles seaward from the Pacific coast of Shuyak, Afognak, Marmot, Spruce, Kodiak, Woody, Ugak, Sitkalidak, Two Headed, Geese, Sitkinak and Chirikof Islands; thence along a line that is three geographical miles south and west of the Semidi Islands; thence northwesterly to 56° 16' 10" North Latitude, 157° 07' 40" West Longitude, the point of beginning.
>
> With respect to the water areas, the boundaries of the Kodiak Island Borough extend to the limits of the State's jurisdiction under AS 44.03.010.

2. The Local Boundary Commission approve inclusion of the contested area within the proposed boundaries of the Lake and Peninsula Borough. However, inclusion is contingent upon successful borough incorporation. Should the area remain unincorporated through 1989, the contested area should automatically be recommended for annexation to the KIB and presented for approval to the 2nd session of the 16th state legislature in 1990.

COMPLETE REPORT

Section A.
ADMINISTRATIVE AND PROCEDURAL INFORMATION

INTRODUCTION

State laws establish the procedures for effecting annexations. They also provide the standards which the Alaska Local Boundary Commission (hereinafter the LBC or the Commission) must use in making its decision on any petition for annexation. The procedures, the selected annexation process, the standards for annexation and the role of the LBC are summarized below.

A. 1. ALASKA LOCAL BOUNDARY COMMISSION

The LBC is the state body whose responsibilities include reviewing and acting upon petitions for annexation and municipal incorporation. The Commission must decide whether each proposal meets the standards for the respective action.

While the Department of Community and Regional Affairs (hereinafter the Department) provides technical and administrative support to the LBC, the Commission is completely independent of the Department and all other state agencies. It is not required to abide by the recommendations made in this report.

The LBC consists of five members appointed by the Governor. One member is appointed from each of the four judicial districts of the state, the fifth member is appointed at large. Commission members serve without compensation. The present members are:

C.B. BETTISWORTH, CHAIR, SERVING AT LARGE
JOSEPHINE ANDERSON, 1ST JUDICIAL DISTRICT
BEN NAGEAK, 2ND JUDICIAL DISTRICT
LAMAR COTTEN, 3RD JUDICIAL DISTRICT
SHELLEY DUGAN, VICE CHAIR, 4TH JUDICIAL DISTRICT

A. 2. STANDARDS FOR ANNEXATION OF CONTIGUOUS TERRITORY

State law requires that certain standards be met before an area may be annexed to a borough. To approve annexation of contiguous territory, the LBC must determine that the borough is "capable of extending and willing to extend services to the annexed area . . . if possible, areawide and non-areawide borough services shall be extended to the annexed area immediately" (19 AAC 10.200).

Additionally, the Commission must be satisfied that the action meets one or more of the following eight standards (19 AAC 10.190(a)) to the extent that annexation is warranted:

1. The contiguous territory is totally surrounded by the borough's boundaries.

2. The land in the territory is wholly owned by the borough.

3. The territory is in need of municipal services which the borough can provide more efficiently than another municipality or the state.

4. There is a reasonable likelihood that growth and development will occur within the territory and that annexation of the territory will enable the borough to plan for and control that development.

5. The health, welfare, or safety of residents of the borough is endangered by conditions existing or developing in the territory and annexation will enable the borough to remove or relieve the conditions.

6. The extension into the territory of borough services or facilities is necessary t enable the borough to provide adequate service to borough residents and it is impossible or impractical for the borough to extend the facilities or services unless the territory is within the borough's boundaries.

7. Residents or property owners within the territory receive or may be reasonably expected to receive, directly or indirectly the benefits of borough government without commensurate property tax contributions, whether borough services are rendered or received inside or outside the territory.

8. The annexation is otherwise necessary to accomplish a valid public purpose.

Further, the law requires that the LBC must find that the post annexation boundaries of the borough would conform substantially to all of the standards set in law for the formation of boroughs (19 AAC 10.220 and AS 29.05.031). These consist of:

1. The population must be interrelated and integrated as to its social, cultural, and economic activities.

2. The population must be large and stable enough to support borough government.

3. The boundaries must conform generally to natural geography and must include all areas necessary for full development of municipal services.

4. The economy of the area must include the human and financial resources capable of providing municipal services.

5. The land, water and air transportation facilities allow the communication and exchange necessary for the development of integrated borough government.

A. 3. AVAILABLE PROCEDURES

State law (AS 29.060.040 and 19 AAC 10.450 - 19 AAC 10.790) outlines the processes by which municipal boundaries may be altered. For annexations of contiguous territory, a borough has five available procedures. They are:

Local Action/Election - The LBC first approves a petition for annexation. Registered voters residing within the territory proposed for annexation then vote on the question. Owners of property within the area proposed for annexation who are not residents of the area are not entitled to vote. Individuals residing within the existing boundaries of the borough are also prohibited from voting on this matter. Annexation is effected by majority approval of those voting on the proposed action [AS 29.06.040(c)(1)].

Local Action/Municipally Owned Property - The municipality which owns all of the property within an area initiates annexation by passage of an ordinance. The annexation is effective upon approval by the LBC [AS 29.06.040(c)(2)].

Local Action/100% Of Voters and Property Owners - All individuals who own property (including non-residents) as well as all registered voters (including those who do not own property) who reside within the area, petition the municipal government for annexation. The municipality adopts an ordinance authorizing the annexation which becomes effective upon approval by the LBC [AS 29.06.040(c)(3)].

Step Annexation - The LBC approves an annexation petition. The registered voters of the area proposed for annexation vote on the question. If passed by a majority of the voters who vote on the issue, the proposed action is reviewed by the state legislature in the same manner provided below. This method of annexation is to be used when services are to be gradually extended to the annexed area over a period not to exceed five years [AS 44.47.567(b)(2)].

Legislative Review - This requires approval of the petition by the LBC and subsequent tacit approval of the petition by the Alaska State Legislature [AS 29.06.040(b)].

Section B.
LEGISLATIVE REVIEW METHOD OF ANNEXATION

INTRODUCTION

In accordance with 19 AAC 10.600, the LBC may consider all methods of annexation to utilize the most appropriate for each petition. The Department believes that the legislative review method proposed by the petitioner is the most appropriate for the subject proposal.

B. 1. LEGISLATIVE REVIEW AS THE MOST APPROPRIATE

As demonstrated below, alternative methods of annexation are unavailable. Therefore, the legislative review method is determined to be the most appropriate process.

Local Action/Election - This process is not available because there are no voters in the territory proposed for annexation.

Local Action/Municipally Owned Property - This process is unavailable since the Kodiak Island Borough does not own the territory proposed for annexation.

Local Action/100% of Voters and Property Owners - This process is not available because property owners have not petitioned the Borough for annexation (there are no resident voters).

Step Annexation - This process is reserved for annexations which anticipate gradual extension of municipal services to the area over a period not greater than five years. This process requires the approval of voters in the area. Since there are no voters, the process is unavailable.

B. 2. LEGISLATIVE REVIEW PROCESS

Petitions for legislative review annexations are processed in accordance with AS 29.06.040 and 19 AAC 10.185-220 and 19 AAC 10.450-620. The process is summarized as follows.

1. A petition with supporting brief is submitted to the Department.
2. The form and content of the petition are reviewed by the Department to determine whether they are substantially proper and correct.
3. If the form and content of the petition are found to be substantially proper and correct, submission of the petition is publicly noticed by the petitioner.
4. The Department prepares a report and recommendation to the LBC on the proposed annexation.

5. The LBC conducts a publicly noticed hearing in or near the territory proposed for annexation. This requirement may also be fulfilled by the LBC conducting a hearing via teleconference.
6. Within 90 days of the public hearing, the LBC renders a decision to accept or reject the petition or to accept the petition but amend the boundaries of the territory.
7. If approved by the Commission, and in compliance with the Federal Voting Rights Act, the annexation proposal is submitted to the U.S. Department of Justice for tacit approval.
8. A recommendation for the annexation is submitted to the state Legislature within ten days of the beginning of the next regular legislative session.
9. If not specifically rejected by a majority of the members of the House and Senate within 45 days of submission, the annexation is approved.

The earliest that the proposed annexation could be accomplished is March, 1989.

INTRODUCTION

In August, 1988, regulations went into effect which provide standards for the LBC to consider and act upon concurrent but separate petitions for local boundary changes. The current annexation petition is being submitted to the LBC for concurrent consideration with a petition for borough incorporation from the Lake and Peninsula School District. The latter includes within its proposed boundaries a portion of the territory proposed for annexation by the Kodiak Island Borough. This chapter provides a profile of the petition for borough incorporation as well as the shared regulatory standards to be applied to these petitions.

C. 1. LAKE AND PENINSULA PETITION FOR INCORPORATION

The Lake and Peninsula region has petitioned the Local Boundary Commission for incorporation as a home rule borough encompassing approximately 26,675 square miles of land and 2,075 square miles of water. The boundaries of the area essentially conform to the boundaries of the Lake and Peninsula School District. This region consists of the Lake Iliamna and Alaska Peninsula areas between the boundaries of the Kenai Peninsula Borough on the north and the Aleutians East Borough on the south. The area is home to 1,469 persons residing in sixteen small communities. Also under consideration with the proposed incorporation is a request by the Levelock Village Council for inclusion of that community and surrounding territory within the boundaries of the proposed borough.

The notable aspect of this proposal is the fact that it is requesting inclusion of a portion of the territory proposed for annexation by the Kodiak Island Borough (see Exhibit A). This "contested area" is that portion of the Alaska Peninsula whose rivers drain into Shelikof Strait or the Pacific Ocean from the boundary of the Kenai Peninsula on the north to Cape Kumlik on the south, and all adjacent waterways to the state's three mile jurisdictional limit. The area has no permanent residents although reportedly there are approximately one dozen dwellings of various types scattered throughout.

C. 2. REGULATORY STANDARDS FOR COMPETING PETITIONS

In order for the Local Boundary Commission to concurrently consider a petition which includes some or all of the area under petition through another local boundary action, the competing petition must be received by the Department within 90 days after the date of receipt of an earlier petition that embraces some or all of the same territory (19 AAC 10.835(b)). In this case, a petition for borough incorporation from the

Lake and Peninsula School District which includes a significant portion of the land area proposed for annexation by the Kodiak Island Borough was received by the Department on November 10, 1988. The Department received the petition for annexation by the Kodiak Island Borough on October 14, 1988.

In considering competing petitions concurrently, the Commission, in accordance with 19 AAC 10.835(d), will give precedence to the petition that, in the judgment of the Commission, serves the best interest of the state. In determining the best interest of the state, the Commission is bound to consider, but is not limited to the following factors:

1. an existing or prospective municipality's ability to better serve the territory embraced by the competing petitions;

2. the extent to which approval of a petition would affect the financial viability of the existing or prospective municipalities that have filed competing petitions; and

3. the extent to which each competing petition satisfies the standards required . . . for the action proposed by the competing petitions.

Section D.
ANNEXATION PROCEEDINGS/BACKGROUND INFORMATION

INTRODUCTION

There are a number of activities which have preceded the preparation of this report. These events are briefly profiled in this section of the report as well as the rationale for the proposal.

D. 1. PROCEEDINGS TO DATE

On May 5, 1988, the Assembly of the Kodiak Island Borough adopted Resolution No. 88-33-R authorizing the submission of the petition now before the LBC. On October 14, 1988, the Department received the petition. Following a review of the petition on October 16, the Department notified the petitioner's representative that the form and content of the petition were found to be in substantial compliance with applicable laws and regulations.

The petitioner published notice of the filing of the petition in the Anchorage Daily News on October 27; the Kodiak Daily Mirror on October 26 and November 2, and in the Borough Post, the Bristol Bay Times and the Aleutian Eagle.

The LBC has scheduled a series of hearings on this matter and on the simultaneous proposed incorporation of the Lake and Peninsula Borough. These meetings will be held in the following locations on the noted days:

Kodiak	December 2, 1988
Iliamna/Newhalen	December 3, 1988

(An effort will be made to connect the following sites to the Iliamna/Newhalen hearing via teleconference: Igiugig, Levelock, Kokhanok, Nondalton, Pedro Bay, Port Alsworth)

Port Heiden	December 3, 1988

(An effort will be made to connect the following sites to this hearing via teleconference: Egegik, Pilot Point).

Chignik Bay	December 4, 1988

(An effort will be made to connect the following sites to this hearing via teleconference: Chignik Lagoon, Chignik Lake, Ivanof Bay, Perryville)

Following the hearings, the LBC may conduct a decisional session to act on the petitions. The meeting will be conducted in Anchorage on December 4, 1988

Notice of the hearings was published in The Borough Post on November 11, 18 and 25; The Kodiak Daily Mirror on November 15, 16 and 17; the Anchorage Daily News on November 16, 17 and 18.

Notice was also published in the Alaska Administrative Journal. In addition, a copy of the notice was mailed to all parties as required by law and at least sixty-five others who the Department believes may be interested in this matter.

D. 2. REASONS FOR ANNEXATION

The petition indicates two primary reasons for the proposed annexation. The first is to provide the Kodiak Island Borough with the jurisdictional control to address problems created by floating processors in the area proposed for annexation. These problems include solid waste disposal, loss of raw fish tax revenue and reduced on-shore fish processing. The second reason, according to the petitioner, is to provide the Borough with the ability to effectively influence state and federal policy and regulatory decisions over the same area.

INTRODUCTION

This section of the report establishes the "setting" for the proposed annexation. The following is a brief description of the territory proposed for annexation and the area proposing annexation.

E. 1. AREA PROPOSED FOR ANNEXATION

The area proposed for annexation comprises 12,830 square miles (see Exhibit A - map of territory proposed for annexation). Of this area, there are an estimated 2,130 square miles of land and approximately 10,700 square miles of water. All land areas are within State jurisdiction. However, approximately 9,014 square miles of waterways are beyond the State's three mile limit.

The land area consists of all those lands on the Alaska Peninsula which drain into Shelikof Strait and/or the Pacific Ocean extending from the Kenai Peninsula boundary on the north to Cape Kumlik on the south. It further includes Sutwik Island, the Semidi Islands group as well as Chirikof Island. Waterways generally consist of all of Shelikof Strait from the Kenai Peninsula Borough boundary on the north to that water area three geographical miles south of Sutwik Island, the Semidi Islands and Chirikof Island.

The following are the outstanding characteristics of the territory proposed for annexation.

- Significant size. In relative terms, the magnitude of the proposed expansion is large. The territory currently embraced by the Kodiak Island Borough boundaries contains 9,565 square miles. Annexation of the entire area as proposed by the petitioner would more than double the existing size of the Borough.

- Koniag Lands. A portion of the area proposed for annexation is within the boundaries of the Koniag Corporation and an undetermined number of selected lands lie within the contested area.

- Absence of residents. According to the Kodiak Island Borough, the area proposed for annexation is uninhabited.

- Limited tax base for the KIB. The area proposed for annexation represents approximately 1.2% of the taxable real and personal property of the KIB. It further offers relatively little revenue from state shared taxes for fish processed within the boundaries of the KIB.

- Competing Interests. Approximately 2,130 square miles of onshore territory, Sutwik Island and adjacent waterways within the proposed annexation area are sought for inclusion within the proposed Lake and Peninsula Borough (see Exhibit A).

E. 2. KODIAK ISLAND BOROUGH

The Kodiak Island Borough currently consists of all the islands in the Kodiak Archipelago; from the Barren Islands on the north, to the Trinity Islands on the south. The community of Kodiak, located on the northeast end of Kodiak Island, is approximately two-hundred fifty miles south of Anchorage.

The Borough contains six cities and one unincorporated community governed by an IRA Council. The populations of the communities range from 102 in Karluk to 6,686 in Kodiak. Approximately 6,000 additional people reside in the "Kodiak Urban Area". The population of the Borough currently totals 14,375.

The economy of the borough is dominated by the commercial fishing industry. There are 17 fish processing plants operating in the borough with another 4 that are functional but not currently working. The Borough states that virtually every type of service needed by the fishing industry is available in Kodiak. Approximately 80% of the fish processing work force is comprised of year-round local residents and approximately 95% of the total service industry work force is comprised of year round borough residents.

The Kodiak Island Borough is a second class borough which was incorporated on September 30, 1963. It currently operates with a mayor form of government and a seven member assembly elected at large. As noted previously, it levies an areawide real and personal property tax at the rate of 4.5 mills. It levies no non-areawide taxes. Each service area levies additional taxes for the provision of specific services. The KIB proposes no service area for the territory proposed for annexation.

Section F.
APPLICATION OF COMPETING PETITION STANDARDS

INTRODUCTION

State statutes and administrative regulations of the Local Boundary Commission establish one standard for consideration of competing petitions. This standard however is defined by at least three factors. In this section of the report this standard is clearly stated followed by a discussion of how each factor is satisfied by the competing petitions. Each factor is phrased as a question and printed in bold letters.

STANDARD:

In considering competing petitions concurrently, the Commission will give precedence to the petition that, in the judgment of the Commission, serves the best interest of the State.

The best interest of the state is determined by answers to the following questions.

F. 1. Which municipality is better able to serve the territory embraced by the competing petitions?

Because the contested area is uninhabited, the demand for services is limited. The KIB observes the need for two services in the area. These are solid waste collection and disposal and land use planning, platting and regulation.

The KIB has noted that it currently provides solid waste disposal for floating processors and fishermen of the area. It further anticipates expansion of this service as the requirements of MARPOL mandate an adequate number of receptacles at the Port of Kodiak for on-land disposal of garbage from fishing vessels. The KIB contends that it will bear the cost of increased waste collection and disposal since Kodiak is the port of call for vessels frequenting the waters of the contested area. The Department observes however, that the City of Kodiak, not the Kodiak Island Borough, will actually bear the majority of the cost of whatever increase in waste collection is required since it is the city who actually provides this service to users of the harbor.

In terms of land use planning, the KIB claims that the area will benefit from its coastal management plan. However, there is nothing to indicate that the proposed Lake and Peninsula Borough would provide the planning and coastal management services any less effectively than the KIB. Currently coastal management is provided in the contested area by the Bristol Bay Coastal Resource Service Area Board. The Lake and Peninsula Borough petition states that planning powers will be assumed immediately upon incorporation and the borough will enforce the coastal management plan at that time. As borough governments

with coastal management plans, the enforceability of both the KIB plan and the Lake and Peninsula plan will be identical.

Thus, the KIB appears to offer the contested area no advantage in either the number of services to be provided nor the extent to which required services will be rendered. Thus, the Department concludes that both entities are equally able to serve the area.

F. 2. To what extent would the financial viability of either municipality be affected if the contested area were included within the boundaries of the other municipality?

As noted previously, the area offers relatively little to either municipality in raw fish tax returns. The Alaska Department of Fish and Game as well as the petitioner have indicated that fish processing may occur on floating processors (there are no shorebased processors in the contested area) but it would be limited to bottomfish catcher/processors. Any raw fish tax revenues from this activity would be relatively insignificant since the bottomfish stock have been extensively harvested and there is very little activity at this point.

The area offers somewhat more value in relative taxable property. It would represent approximately 1.2% of the total of the Kodiak Island Borough. It would represent more value to the Lake and Peninsula Borough at 15.9% of its total property value. Thus, in relative terms, the contested area appears to be more valuable to the Lake and Peninsula Borough.

The potential tax from sales of fish in the contested area does appear to be relatively more significant to the proposed borough than to the existing borough. Currently the KIB levies a 4.5 mill areawide property tax and no sales tax. The proposed Lake and Peninsula Borough will levy a 1% sales and use tax. Although the tax structure of the proposed borough is unknown at this time, presumably the tax will be levied at the point of fish sale as currently implemented by at least one other borough in the state. The Alaska Department of Fish and Game in Kodiak has reported that the 1988 value of salmon caught for the mainland of the Kodiak Management Area (from Cape Douglas to Cape Kilokak) was $13,938,400. The following table reflects the species, pounds, price and value of salmon caught in this area during this season:

Species	Pounds Caught	Price Per Pound	Value
King Salmon	64,000	$1.25	80,000
Red Salmon	2,000,000	$2.55	$ 5,100,000
Coho Salmon	420,000	$1.50	630,000
Pink Salmon	6,612,000	.70	4,628,400
Chums	3,500,000	$1.00	3,500,000
TOTAL	12,596,000		$13,938,400

Noting that this was an unusually large catch (30% - 50% higher than the average poundage for the area) with record prices, the Department has conservatively estimated the value of salmon in the area at $6,000,000. Since the KIB levies no sales tax, these fish offer no sales tax revenues to the KIB. However, since the Lake and Peninsula Borough will levy a 1% sales and use tax, these salmon alone represent a potential $60,000 to the new Borough. Putting this figure into relative perspective, this is 8.8% of the total local revenues for the Lake and Peninsula Borough. On the other hand, the potential property tax revenues from the territory represent only 1.2% of the total local revenues to be generated by the KIB. Thus, to the Lake and Peninsula Borough, the loss of sales and use tax revenue is far more significant than to the Kodiak Island Borough.

While the Department considers neither government infeasible if the contested area remains outside the respective jurisdictional boundaries of either one, the area is significantly more valuable to the Lake and Peninsula Borough in terms of taxable property and fish sales than it is to the KIB. Therefore, the Department concludes that the Lake and Peninsula Borough's argument is definitely more persuasive and meritorious than the KIB in this regard.

F. 3. To what extent does the annexation petition from the KIB and the borough incorporation petition from the Lake and Peninsula region best meet the standards for their respective actions.?

The Department has determined that the borough incorporation petition from the Lake and Peninsula region meets the standards for borough incorporation to a degree which warrants inclusion of the contested area within the boundaries of the Lake and Peninsula Borough. Under separate cover, the Department has analyzed and concluded that the Lake and Peninsula Borough incorporation meets all standards for this action (see report titled Report and Recommendation to the Local Boundary Commission on the Petition for Incorporation of a Lake and Peninsula Borough). Under cover of this report, the Department, establishes that the Kodiak Island Borough, in the absence of a competing petition, would sufficiently meet the standards for annexation to the degree necessary to recommend the action.

INTRODUCTION

State statutes and administrative regulations establish a number of standards which must be applied in judging the merits of any proposal for the annexation of territory to a borough. This section of the report lists each of these standards (phrased as a question and printed in bold capital letters), followed by a discussion of current conditions which apply under the standard and the Department's analysis of the degree to which the standard is satisfied by the proposal.

To approve the annexation, the LBC must determine that one or more of the first eight standards is satisfied to the extent that annexation is warranted. It is mandatory that all of the remaining standards (9th - 14th borough incorporation standards) be satisfied. It is within the Commission's discretion to approve the petition as submitted, reject the petition entirely, or amend the boundaries of the territory proposed for annexation. With respect to the latter, the LBC may expand or reduce the territory proposed for annexation.

BOROUGH ANNEXATION STANDARDS

G. 1. IS THE CONTIGUOUS TERRITORY TOTALLY SURROUNDED BY THE BOROUGH'S BOUNDARIES?

The territory proposed for annexation is not totally surrounded by boundaries of the Kodiak Island Borough. Therefore, this standard is not met.

G. 2. IS THE LAND IN THE TERRITORY WHOLLY OWNED BY THE BOROUGH?

None of the land in the territory proposed for annexation is owned by the Borough. Therefore, this standard is not met.

G. 3. IS THE TERRITORY IN NEED OF MUNICIPAL SERVICES WHICH THE BOROUGH CAN PROVIDE MORE EFFICIENTLY THAN ANOTHER MUNICIPALITY OR THE STATE?

The Kodiak Island Borough exercises the following powers on an areawide or non-areawide basis: education, planning, platting, regulatory controls, assessment and collection of taxes, health services, parks and recreation, animal control, solid waste collection and disposal and economic development.

Because the subject territory is uninhabited, the demand for services is limited. The borough contends that the area warrants land use planning, platting and land use regulations which it would provide upon annexation. The petition also indicates that solid waste disposal for floating processors is

being provided by the KIB. The KIB contends that with the enactment of MARPOL on December 31, 1988, this service will be mandated. That is, since it reportedly provides solid waste collection and disposal at the Port of Kodiak it will be impacted by the requirements of the recently enacted federal legislation. However, the Department understands that the City of Kodiak actually provides waste collection services to the users of the harbor. In response to the legislation, the City plans to pruchase additional solid waste receptacles for the harbor. The City is planning to offset the additional costs it will incur in the handling of solid waste and waste oil from marine vessels through increases in moorage and/or user fees. Thus, the City of Kodiak is actually providing these services to vessels frequenting the waters of the contested area.

In considering whether the Kodiak Island Borough is the municipality best suited to provide planning and solid waste disposal services, the Department notes that the proposed Lake and Peninsula School Borough will offer identical planning services to that area currently proposed for incorporation. Further, since the City of Kodiak provides solid waste services to the vessels of the area, the KIB appears to offer no advantage to the area over services to be provided by other governments. Therefore, the Department concludes that this standard is not met.

G. 4. IS THERE A REASONABLE LIKELIHOOD THAT FUTURE GROWTH AND DEVELOPMENT WILL OCCUR WITHIN THE TERRITORY AND THAT ANNEXATION OF THE TERRITORY WILL ENABLE THE BOROUGH TO PLAN FOR AND CONTROL THAT DEVELOPMENT?

The petitioner identifies potential development of the area. This is primarily through mineral, oil and gas and fishing activities. The petitioner has observed that mineral exploration continues to take place in the area proposed for annexation. Oil and gas lease sale #114 is scheduled to be held in September of 1990. Both activities have the potential for resource development and attendant impact on the area proposed for annexation. However, because the potential for this development is so speculative, the Department can not conclude that these activities will satisfy this standard.

The petitioner has observed that the number of offshore floating processors in this area continues to increase yearly and certainly indicates growth and development in the fishing industry in the area. While the actual number of fish processors will certainly fluctuate with the fish harvest, the petitioner observes that it is likely the area will see added growth in the use of offshore processors since it is also likely that larger and more varied fish harvests will be experienced in the future.

The Department recognizes the potential for growth of this industry sufficient to meet the "potential for development" suggested by this standard. It agrees that inclusion of this area within a regional government is appropriate for regulation

of the growing fisheries industry. Since the area faces problems and issues that are likely to be regional in nature (mineral and fisheries resource extraction) the Department finds it appropriate to assume a regional approach to problem solving.

Both governments can argue that it is necessary for each to regulate development activity in the contested area. That is, debris and waste wash ashore on the Alaska Peninsula as well as on Kodiak Island. Therefore, there is no compelling aspect of this argument which justifies the KIB having this territory any more than the proposed Lake and Peninsula Borough. Both governments are regional governments with legitimate concerns over control and regulation of development activity in the area. Thus, it is the Department's opinion that only in the absence of a Lake and Peninsula Borough should the petitioner be allowed to plan for and control existing and anticipated development in the contested area proposed for annexation.

G. 5. IS THE HEALTH, WELFARE OR SAFETY OF BOROUGH RESIDENTS ENDANGERED BY CONDITIONS EXISTING OR DEVELOPING IN THE TERRITORY AND WILL ANNEXATION ENABLE THE BOROUGH TO REMOVE OR RELIEVE THESE CONDITIONS?

The KIB has argued that the mineral resource extraction industries and floating processors in the area as well as federal land development plans have resulted in negative impacts on local fishermen and onshore fish processors on Kodiak Island. The petitioner observes that the number of offshore processors, who typically operate with self-contained out-of-state crews, has increased substantially in recent years. The petitioner contends that these processors have drawn the fish which would normally be delivered to on-shore facilities, thus denying the KIB the proportionate amount of raw fish tax revenues as well as its residents the dollars that would normally go to the local economy. The economic welfare of KIB residents is thus negatively affected.

The petitioner further argues that floating processors discharge waste that finds its way to the beaches and waters of Kodiak Island. Thus, the health of KIB residents is endangered.

Finally, the petitioner makes the point that the federal government has indicated its intent to plan for and manage the land in the area proposed for annexation without regard to the concerns of the KIB. The petitioner argues that annexation of the area will allow more extensive and influential input from the borough on the use and management of these lands.

The Department does not discount the Borough's arguments. However, to the extent that they apply to the KIB so they apply to the proposed Lake and Peninsula Borough. In fact, it is notable that in relative financial terms these arguments apply to a greater degree to the Lake and Peninsula Borough. That is, the contested area holds relatively greater revenue potential for the Lake and Peninsula Borough than for the KIB.

As noted earlier, this area represents 1.2% of the total taxable property value of the borough. However, it represents 15.9% of the total taxable value of the Lake and Peninsula Borough. Further, the estimated numbers of fish sold in the contested area are tantamount to an additional $60,000 in sales and use tax revenues to the Lake and Peninsula Borough while they represent no additional tax revenue to the KIB. These fish sales then represent 8.8% of the total local revenues to be generated by the Lake and Peninsula Borough. On the other hand the territory represents only 1.2% of the total local revenues generated by the KIB, and these in terms of taxable property values. Thus, to the Lake and Peninsula Borough, the loss of taxable property values and sales/use tax revenue from this area is far more significant than to the Kodiak Island Borough.

In terms of endangerment to the health of borough residents, again the proposed Lake and Peninsula Borough will face the problems experienced by the KIB. Floating debris and waste washes ashore on the Alaska Peninsula even as it does on Kodiak Island. The Lake and Peninsula region contends that these conditions apply to it to at least the same extent, if not more so, than they do to the KIB. The Department agrees.

In regard to influence over land use and management plans of the area by the federal government, the Lake and Peninsula Borough claims even greater interest in policy direction. It notes that much of the land in the area proposed for annexation is also within the Katmai National Park and Preserve, Becharof National Wildlife Reserve, Alaska Peninsula National Wildlife Reserve, and Aniakchak National Monument and Preserve. These federal parks and reserves contain practically all of the proposed borough's remaining lands on the Alaska Peninsula. Given the interest to which the proposed Lake and Peninsula borough will have in federal decisions over these lands, the proposed borough would seem to have a need for an even greater degree of influence in federal planning and management decisions of the area.

All factors considered, it is the Department's opinion that only in the absence of a Lake and Peninsula borough should the petitioner annex the contested area to address the economic and health problems presented by the existing and developing industry in the area.

G. 6. IS THE EXTENSION INTO THE TERRITORY OF BOROUGH SERVICES OR FACILITIES NECESSARY TO ENABLE THE BOROUGH TO PROVIDE ADEQUATE SERVICE TO BOROUGH RESIDENTS, AND IS IT IMPOSSIBLE OR IMPRACTICAL FOR THE BOROUGH TO EXTEND THE FACILITIES OR SERVICES UNLESS THE TERRITORY IS WITHIN THE BOROUGH'S BOUNDARIES?

The Kodiak Island Borough has presented no evidence that its petition satisfies this standard. Likewise, the Department is unaware of circumstances which apply in this situation.

G. 7. DO THE RESIDENTS OR PROPERTY OWNERS WITHIN THE TERRITORY RECEIVE OR CAN THEY BE REASONABLY EXPECTED TO RECEIVE, DIRECTLY OR INDIRECTLY, THE BENEFIT OF BOROUGH GOVERNMENT WITHOUT COMMENSURATE PROPERTY TAX CONTRIBUTIONS, WHETHER BOROUGH SERVICES ARE RENDERED OR RECEIVED INSIDE OR OUTSIDE THE BOROUGH?

The Kodiak Island Borough has presented no evidence that its petition satisfies this standard. Likewise, the Department is unaware of circumstances which apply in this situation.

G. 8. IS THE ANNEXATION OTHERWISE NECESSARY TO ACCOMPLISH A VALID PUBLIC PURPOSE?

The petitioner has stated that it believes the Kodiak Island Borough can not "control its destiny" (based as it is on the commercial fishing industry) without expanding its regional geographic base. This expansion is necessary because of the trend toward floating fish processing, federal and state decisions made about the contested area without regulatory input from the Borough, and loss of local revenue which the area may somewhat offset. The Borough implies that the combined impact of these conditions forms a valid public purpose of the action.

However, as stated in preceding standards, as the situation applies to the KIB so it applies to the proposed Lake and Peninsula Borough. That is, the latter argues that it will need to: regulate and control development and attendant impacts of existing and anticipated growth; avail itself of any potential raw fish tax revenues or potential fish sale tax revenues; and influence federal land use and management decisions of so much of its territory. Thus, an equally valid public purpose is served by the inclusion of this area within the proposed Lake and Peninsula borough as within the Kodiak Island Borough. In fact, given the relative importance of this area in terms of potential revenue, impact on its region's residents and interest in federal management decisions, it is the Department's opinion that only in the absence of a Lake and Peninsula Borough does annexation of the contested area by the KIB become necessary to accomplish a valid public purpose.

BOROUGH INCORPORATION STANDARDS

The following standards are those which apply to the incorporation of boroughs. While these standards are examined with regard to the proposed Lake and Peninsula Borough under separate cover, they likewise apply in the case of proposed annexations. In fact, it is mandatory that they be met in the course of a successful borough annexation. Therefore, they are examined below.

G. 9. IS THE KODIAK ISLAND BOROUGH CAPABLE OF AND WILLING TO EXTEND AREAWIDE AND NON-AREAWIDE SERVICES TO THE AREA PROPOSED FOR ANNEXATION?

As indicated in Section G.3. of this report, the need for services in the area proposed for annexation is limited. The extension of areawide and non-areawide services to this territory would require little expenditure by the Borough. The KIB appears willing and capable of serving the contested area. Therefore, the Department agrees that on the merits of the annexation only, this standard is satisfied.

G. 10. WOULD THE POPULATION WITHIN THE EXPANDED BOUNDARIES OF THE BOROUGH REMAIN INTERRELATED AND INTEGRATED AS TO ITS SOCIAL, CULTURAL, AND ECONOMIC ACTIVITIES?

The area proposed for annexation is uninhabited. However, the KIB has claimed that the social, cultural and economic activities of the population of the Borough is tied to the area proposed for annexation. The Department agrees that on the merits of the annexation only, this standard is satisfied.

G. 11. WOULD THE POPULATION WITHIN THE EXPANDED BOUNDARIES OF THE BOROUGH REMAIN LARGE AND STABLE ENOUGH TO SUPPORT BOROUGH GOVERNMENT?

Again, since the area proposed for annexation is uninhabited, the size and stability of the Borough's population would not be affected by the annexation. The Department agrees that on the merits of this annexation only, this standard is satisfied.

G. 12. WOULD THE EXPANDED BOUNDARIES OF THE BOROUGH CONFORM GENERALLY TO THE NATURAL GEOGRAPHY AND STILL INCLUDE ALL AREAS NECESSARY FOR FULL DEVELOPMENT OF MUNICIPAL SERVICES?

The petitioner contends that with this annexation, the Borough's boundaries would follow the natural geography of the region. It identifies the Aleutian Range running east/west along the peninsula as a natural divider between the rivers that empty into Shelikof Strait and those that empty into Bristol Bay. The Borough notes that this drainage pattern unites the area with the Kodiak Island Borough as the islands' rivers likewise flow into Shelikof Strait. The Department agrees that on the merits of this annexation only, this standard is satisfied.

G. 13. WOULD THE ECONOMY OF THE EXPANDED BOROUGH STILL INCLUDE THE HUMAN AND FINANCIAL RESOURCES CAPABLE OF PROVIDING MUNICIPAL SERVICES?

Again, because there is no population change, the annexation would have no effect on the human resources of the KIB. Likewise, it would have no effect on the human resources of the proposed Lake and Peninsula Borough. The Department agrees that on the merits of this annexation only, this standard is satisfied.

G. 14. WOULD THE LAND, WATER AND AIR TRANSPORTATION FACILITIES OF THE EXPANDED BOROUGH STILL ALLOW THE COMMUNICATION AND EXCHANGE NECESSARY FOR THE DEVELOPMENT OF INTEGRATED BOROUGH GOVERNMENT?

This annexation will not affect the ability of residents of the Kodiak Island Borough to communicate and interrelate. The Department agrees that on the merits of this annexation only, this standard is satisfied.

INTRODUCTION

This section of the report summarizes the findings of the Department with regard to the petition before the LBC. These findings are presented as conclusions. The conclusions are followed by recommendations to the LBC.

H. 1. DEPARTMENT CONCLUSIONS

Clearly, claims to the contested area by the KIB and the proposed Lake and Peninsula Borough are meritorious in their own right. Both governments appear to meet the standards for their respective actions; both governments appear to be capable of serving the territory; neither government would be rendered financially infeasible if the territory were located within the boundaries of the other. However, given the fact that claims are laid to the same territory by these two regional governments under the conditions stated herein, the Department finds that the cumulative weight of evidence supports the proposed Lake and Peninsula Borough. Thus, it is the conclusion of the Department that the proposed Lake and Peninsula Borough should include the contested area within its proposed boundaries. However, because of the legitimacy of the claims on the part of both regional governments, it is also the conclusion of the Department that if the Lake and Peninsula region fails to incorporate as a borough during 1989, the Local Boundary Commission should forward a legislative review annexation recommendation to the 2nd Session of the Sixteenth State Legislature (to convene in 1990), that the contested area be annexed to the Kodiak Island Borough.

H. 2. DEPARTMENT RECOMMENDATIONS

1. The Local Boundary Commission approve the annexation of the Semidi Islands and Chirikof Island to the Kodiak Island Borough. The boundaries of the Kodiak Island Borough would then read as follows:

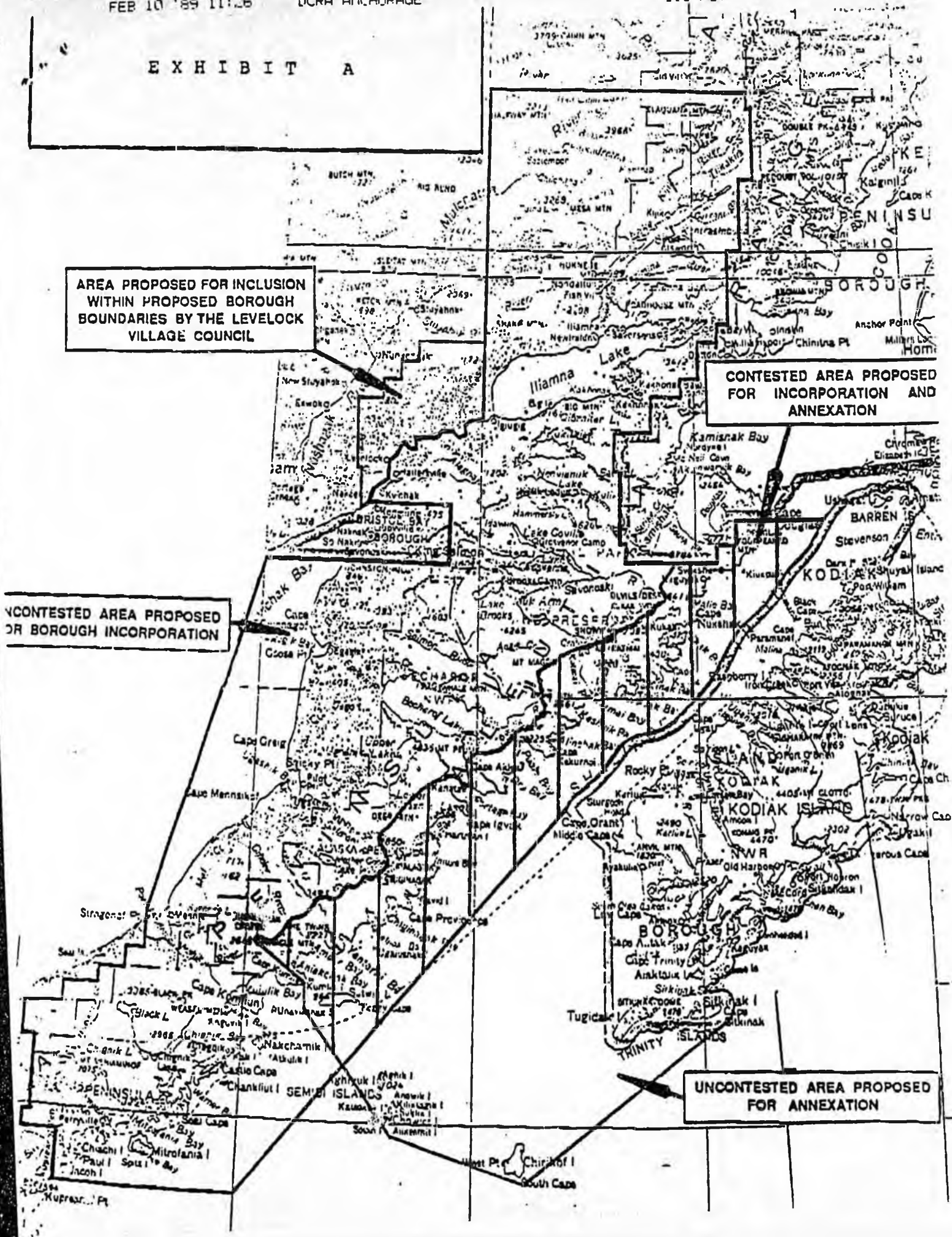
> Beginning at 56° 16' 10" North Latitude, 157° 07' 40" West Longitude, thence; thence northeasterly to a point at 56° 28' 00" North Latitude, 155° 12' 00" West Longitude which is the mid-channel of Shelikof Strait; thence continuing along the mid-channel of Shelikof Strait to a point at 58° 45' North Latitude; thence northeasterly to a point three geographic miles northeasterly of the northwestern peninsula of Ushagat Island; thence continuing along a line that is three geographical miles north of Ushagat, West Amatuli and East Amatuli Islands; thence along a line that is three geographical miles seaward from the Pacific coast of Shuyak, Afognak, Marmot, Spruce,

Kodiak, Woody, Ugak, Sitkalidak, Two Headed, Geese, Sitkinak and Chirikof Islands; thence along a line that is three geographical miles south and west of the Semidi Islands; thence northwesterly to 56° 16' 10" North Latitude, 157° 07' 40" West Longitude, the point of beginning.

With respect to the water areas, the boundaries of the Kodiak Island Borough extend to the limits of the State's jurisdiction under AS 44.03.010.

2. The Local Boundary Commission approve inclusion of the contested area within the proposed boundaries of the Lake and Peninsula Borough. However, inclusion is contingent upon successful borough incorporation. Should the area remain unincorporated during 1989, the contested area should automatically be recommended for annexation to the KIB and presented for approval to the 2nd session of the 16th state legislature.

EXHIBIT A


AREA PROPOSED FOR INCLUSION WITHIN PROPOSED BOROUGH BOUNDARIES BY THE LEVELOCK VILLAGE COUNCIL
CONTESTED AREA PROPOSED FOR INCORPORATION AND ANNEXATION
NCONTESTED AREA PROPOSED OR BOROUGH INCORPORATION
UNCONTESTED AREA PROPOSED FOR ANNEXATION
Iliamna Lake
Kamishak Bay
BARREN IS
KODIAK
KODIAK ISLAND
TRINITY ISLANDS
SEMIDI ISLANDS
Cape Greig
Cape Mennsikof
Cape Orant
Cape Trinity
Cape Kumliun
Cape Chankliut
Cape Providence
Chirikof I
South Cape
Tugidak I
Sitkinak I
Kodiak
Old Harbor
Rocky Pt
Anchor Point
Chinitna Pt
Stevenson
Port William
Kukak Bay
Cape Douglas
Cape Nukshak
Cape Igvak
Cape Akhiok
Cape Ugak
Cape Ch
Narrow Cape
Cape Greig
Cape Kumliun
Cape Chankliut
Cape Providence
Cape Trinity
Cape Orant
Middle Cape
Low Cape
Cape Ayakulik
Cape Nakchamik
Cape Castle
Cape Seal
Cape Mitrofania
Cape Kuprean
Cape Stratogoff
Cape Chiachi
Cape Paul
Cape Jacob
Cape Ugak
Cape Ch
Narrow Cape
Cape Greig
Cape Mennsikof
Cape Orant
Middle Cape
Cape Trinity
Cape Kumliun
Cape Chankliut
Cape Providence
Cape Nakchamik
Cape Castle
Cape Seal
Cape Mitrofania
Cape Kuprean
Cape Stratogoff
Cape Chiachi
Cape Paul
Cape Jacob
Cape Ugak
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Narrow Cape
Cape Greig
Cape Mennsikof
Cape Orant
Middle Cape
Cape Trinity
Cape Kumliun
Cape Chankliut
Cape Providence
Cape Nakchamik
Cape Castle
Cape Seal
Cape Mitrofania
Cape Kuprean
Cape Stratogoff
Cape Chiachi
Cape Paul
Cape Jacob

#3

THE
LAKE AND PENINSULA
SCHOOL DISTRICT

P.O. Box 498
King Salmon, Alaska 99613
Phone (907) 246-4280

Date: February 10, 1989

To: Members of the Alaska Legislature

From: Frank Hill, Petitioners Representative
Lake and Peninsula Home Rule Borough FH

The petitioners for the incorporation of the Lake and Peninsula Borough request your support in disapproving the annexation proposed by the Kodiak Island Borough.

Representative George Jacko Jr. has introduced HJR23 which, if passed, would disapprove the Local Boundary Commission's inappropriate recommendation for annexation of territory to the Kodiak Island Borough.

The Lake and Peninsula area residence will vote on the incorporation of a Home Rule Borough on April 11, 1989. Most of the territory that Kodiak Island Borough will annex is within the area proposed for incorporation by the Lake and Peninsula Borough.

Please review the attached document which briefly list reasons why we believe the Kodiak Island Borough annexation needs to be dissaproved by the Alaska Legislature.

Thank you in advance for your support on Rep Jacko's resolution which is critical to borough formation in the Lake and Peninsula area.

The Legislature Should Deny The Annexation By Kodiak Island Borough for the Following Reasons:

1) The majority of the areas proposed for annexation falls within The Borders of The Lake and Peninsula REAA.
2) Mandatory Borough formation proposed by HB1 in the 15th Legislature gave cause to think about creating our own borough in the region. Also when Lake and Peninsula REAA territory was allowed to become a part of the Aleutians East Borough as it was incorporated gave further cause to begin the process of forming a borough in the Lake and Peninsula region.
3) On March 30, 1988 The Representatives of all the villages within The Lake and Peninsula REAA voted to request that The Lake and Peninsula REAA study the feasibility of a borough in the region, and if found feasible, to file an incorporation petition on their behalf.
4) During the June 9, 1988 School Board Meeting, The Lake and Peninsula School Board approved the drafting of a petition for the incorporation of The REAA as a home rule borough.
5) The Lake and Peninsula Borough Incorporation proposal drafts were submitted to DCRA in September 1988; copies of The Incorporation proposal were requested by Kodiak Island Borough.
6) Kodiak Island Borough (KIB) filed a proposal to annex territory on the Alaska Peninsula and the waters of Shelikof Strait on October 13, 1988. The land area and much of the water area are currently within The Lake and Peninsula REAA.
7) A petition to incorporate the entire Lake and Peninsula REAA as a home rule borough was filed on November 10, 1988.
8) The DCRA completed a study of the two petitions, and concluded that the contested area should be included within the proposed Lake and Peninsula Borough. The DCRA study recommended that the annexation proposal by Kodiak Island Borough be denied.
9) The LBC conducted teleconference hearings in with Kodiak, and three communities (Newhalen, Port Heiden, and Chignik) within the area proposed for incorporation on December 2, 3, 1988. The hearings were held to recsive testimony on the Kodiak Island Borough Annexation, and The Incorporation of Lake and Peninsula Borough questions.
10) On December 4, 1989, the LBC held a decisional meeting concerning the Kodiak Annexation and Lake and Peninsula Borough Incorporation issues. The LBC approved the KIB Annexation proposal and the incorporation petition for the Lake and Peninsula home rule borough.
11) The LBC favored an existing, viable borough with additional resource and revenue base over a proposed borough that has yet to prove its actual economic viability.
12) It is the position of Lake and Peninsula that the area allowed to be annexed is noncontigious to the KIB. The contested area is separated from the KIB by Federal Waters. LBC regulations (19 AAC 19.190 (b) (1) (2)) do not allow annexation of noncontiguous areas.
13) The LBC made no finding that the contested area was contiguous to KIB.
14) The residents of the proposed Lake and Peninsula borough view the annexation by KIB as a disincentive to incorporating their own area due to the diminished economic viability caused by the KIB annexation. We are convinced that the Kodiak annexation will jeopardize voter approval of borough formation in the Lake and Peninsula Area.

Petitioners
Lake and Peninsula Borough

February 7, 1989
Box 762
Dillingham, Ak 99576

Sen. Al Adams, Chairman
Senate Community and Regional Affairs Committee
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Rep. Eileen Maclean, Chairman
House Community and Regional Affairs Committee
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Re: Local Boundary Commission - HB-131, Kodiak Island Borough annexation, Lake and Peninsula incorporation

Dear Sen. Adams and Rep. Maclean:

I write to urge your committees to consider a major overhaul of the Local Boundary Commission process for considering borough incorporations and annexations. I also urge you to put borough decisions on hold in the meantime, and more particularly to veto the Kodiak Island Borough annexation and, if possible, to remand the Lake and Peninsula decision to the LBC for further consideration.

As a Dillingham city councilman, an attorney employed by a Native association, and a former newspaper writer in Bristol Bay I have closely scrutinized the above-referenced actions and also the 1987 Aleutians East incorporation. In terms of substantive analysis these three LBC decisions are probably the worst administrative decisions I have seen in ten years of legal practice.

While Rep. Shultz's bill is a good starting point, it does not go far enough. A major problem is that the statutory and regulatory standards, probably inadequate to begin with, have been so loosened in application that they no longer mean anything. The LBC simply substitutes its own judgement for the legally-promulgated standards whenever a contested issue arises, with the result that its decisions are arbitrary and inconsistent.

The process encourages land-grabs and results in further concentration of the tax base in the more politically sophisticated, urbanized communities at the expense of villages. It also results in boundaries that are irrational from a geographic and demographic perspective. You simply cannot carve up large regions of the state on a first-come

first-served basis, requiring only minimal compliance with weak standards, and hope to have a fair and rational result.

The Kodiak Island Borough annexation. This annexation should be vetoed because it is bad public policy and because the LBC threw its standards to the winds to allow it.

The Kodiak borough was allowed to annex a large uninhabited portion of the Alaska Peninsula and adjacent waters of the Shelikoff Strait that Lake and Pen also sought to incorporate. It should be borne in mind that Lake and Pen had only to meet the standards for incorporation, while Kodiak had to meet those standards and the regulatory standards for annexation.

The LBC's rationale for giving the area to Kodiak instead of Lake and Pen seems to have been that the Shelikoff Strait is fished primarily by Kodiak-based fishermen and that taxes from that fishery should, in fairness, go to Kodiak. While that may seem reasonable, no such standard is found in the statute or the regulations. This is a prime example of the LBC substituting its own judgement of what "ought" to happen for the legally-established rules.

The Kodiak annexation was granted under the LBC's regulations governing "contiguous" annexations, under which it had to meet one of eight regulatory standards. However, a preliminary issue not even discussed in the decision was whether the annexed territory is contiguous to the original borough. By any common sense definition it is not contiguous because it is separated from the original Kodiak Island Borough by federal waters beyond the territorial limit of Alaska and will be a separate enclave.

Likewise, the eight regulatory standards were not meaningfully applied. The LBC found that three of them were met, but not one of these findings withstands scrutiny. The LBC merely accepted the bare representations of the petitioners without independent analysis or research - despite DCRA's statutory duty to "investigate" proposals.

There was no evidence of likely development in the area which Kodiak could realistically plan for or control, no evidence that municipal services were needed and no evidence that the borough would provide any additional services in the area, which after all is uninhabited. In short, the only real reason for the annexation was to provide the Kodiak borough an additional revenue source, and that alone does not meet the legal standards. It should also be noted that most of the reasons the LBC cited for approving the annexation applied only to the waters of Shelikoff Strait and not to the Alaska Peninsula.

From a public policy perspective one has to question the wisdom of giving this revenue source to a borough with a relatively vibrant economy and healthy tax base at the expense of nearby chronically depressed villages with no tax base. Kodiak has numerous fisheries and is one of the communities directly benefitting from the "Americanization" of the North Pacific bottom fishery. It has year-round harbors and processing plants. The Lake Iliamna villages in contrast are almost solely dependent on the Bristol Bay salmon fishery, for which non-residents hold most permits. There are no processing plants. The typical village has only a few salmon permits and a handful of salaried jobs in the schools and local government. Unemployment is astronomical in the winter months.

One would think it in the state's interest that such villages have access to nearby fisheries, if only through taxation. And perhaps the new borough could develop programs enabling its people to more directly benefit from the Shelikoff Strait fisheries.

The LBC's decision itself found that the revenues from this territory would be much more important to Lake and Pen than to Kodiak, although not critical to either. Kodiak's benefit would be negligible.

Lake and Peninsula incorporation. This decision should be held open by whatever legal mechanism is available to do so. For one thing, a veto of the Kodiak annexation will not alone give Lake and Pen the additional territory it sought, and deserves.

For another, the borough's northwestern boundary was approved without adequate notice to neighboring communities in the Nushagak drainage. In my view, the procedures used effectively precluded any meaningful opportunity to be heard by residents of the adjacent area and thereby violated their constitutional rights of due process and equal protection.

Substantively, the northwestern boundary clearly violates the statutory standards by following longitudanal lines rather than natural geography and socio-economic use patterns. By slashing arbitrarily across the drainages, it divides historic (and logical) planning units and puts valuable spawning grounds for the Nushagak salmon fishery in the new borough. It also places subsistence hunting and fishing areas that Nushagak village residents say are traditionally "theirs" in the Lake and Pen Borough.

Depending on Lake and Pen's evidence, of course, the boundary might be moved in either direction if the legal standards were applied. But the northwestern boundary was not even addressed in the LBC decision, and the LBC refused to grant reconsideration of the decision so that it could be.

Another reason for overturning this decision is the speed with which it was made (24 days). This did not allow sufficient investigation and evaluation of the proposal by DCRA and the LBC, much less by the public. Many residents of the region believe one borough encompassing all of Bristol Bay would be a better choice. DCRA has been asked to study this possibility but has not done so.

In conclusion, the LBC process and the statutory standards for incorporation should be modified to ensure that boundaries are made on sound planning principles. Natural geography, traditional use patterns, and existing land-planning units should be emphasized in unpopulated areas. At the very least, if decisions are going to be made on the basis of "who should get the revenues," the legislature and not the LBC should establish the policies for making that choice. I would think the state would want to spread out the tax base as much as possible.

The standards and procedures should also be modified to give the interests of communities outside proposed boundaries equal consideration and to ensure that regions are looked at as whole.

The LBC's analysis would be improved if neutral hearing officers conducted the hearings and made recommended decisions, and if DCRA's investigative and technical assistance roles were clearly separated and performed by different people. DCRA's investigative duty should be more clearly spelled out so that decisions are based on facts and expertise rather than the superficial representations of those pushing a proposal. Right now, the whole petitioning process is little more than a word game.

Sincerely,

Bruce Baltar

Bruce B. Baltar

cc Sen. Zharoff
Sen. Binkley
Rep. Jacko
Rep. Hoffman
Rep. M. Davis
Rep. Schultz

#5

FROM: COMMENTS ON LOCAL BOUNDARY COMMISSION PROCESS BY: BRISTOL BAY NATIVE ASSOC.

B. Annexation.

There are no statutory standards for annexation. The LBC by regulation (19 AAC 10.190) has set up separate standards for the annexation of contiguous territory and of non-contiguous territory. The latter, for obvious reasons, is much more stringent.

1. Definition of "Contiguous."

The LBC recently approved the annexation of a large area on the Alaska Peninsula to the Kodiak Island Borough under its standards for annexation of contiguous territory. The annexed area is separated from the Kodiak Island Borough by Shelikoff Strait, the center of which for its entire course is federal water beyond the territorial limit of Alaska. The LBC rejected Lake and Pen's competing claim for the same territory.

Neither the LBC decision nor its staff report discuss the crucial preliminary issue of whether the annexed territory is contiguous to the original Kodiak Island Borough. Under a dictionary or common sense definition, it surely is not contiguous. However, contiguous is defined at 19 AAC 10.840(4) "as territory which is immediately adjacent to or which is separated only by natural or artificial barriers which do not disrupt or impede the supplying or receiving of municipal services."

The problem with that definition, as apparently construed by the LBC in the Kodiak decision, is that the exception swallows the rule. Boroughs provide very few municipal services in roadless, unpopulated areas, and those services they do provide (i.e., planning) are not hampered by geographic barriers. If the Alaska Peninsula is "contiguous" to Kodiak Island despite the jurisdictional barrier of federal waters, it is difficult to conceive of any roadless, sparsely populated area of the state that is not contiguous to any other area. An ocean, another borough, a mountain range, or 500 miles of land are just barriers which do not "disrupt or impede" borough services when those services are almost non-existent to begin with.

The definition of contiguous in 19 AAC 10.840(4) could be salvaged if the LBC were to construe it more closely to the dictionary definition. But following the Kodiak decision, there is no longer a distinction between contiguous and non-contiguous lands for purposes of borough annexations, and the whole framework of 19 AAC 10.190 is undermined.

2. Standards for contiguous annexations.

Eight standards are set forth in 19 AAC 10.190(a) for annexation of contiguous territory. Only one of these standards must be met for the annexation to be approved. In addition, the annexation must meet the four statutory standards for borough incorporation of AS 29.05.031.

Some of the eight standards of 10.190(a) are relatively straight-forward and easy to apply, i.e. whether the land is totally surrounded by the borough or wholly owned by the borough. Others, however, have been so watered down by the LBC that virtually any proposal will meet them. Such standards are meaningless.

The problem can best be illustrated by reference to an LBC decision. In the Kodiak decision the LBC found that three of the regulatory standards for annexation were met, those of 19 AAC 10.190(a)(3),(4) and (8).

(a) Application of 10.190(a)(3)

The LBC found that the Kodiak annexation met the third regulatory standard: "the territory is in need of municipal services which the organized borough can provide more efficiently than another municipality or the state." Specifically, the LBC found that the area was in need of "planning, economic development and solid waste collection and disposal which can best be provided by the Kodiak Island Borough."

This ruling is particularly suprising since earlier in the decision the LBC said: "The contested area is uninhabited. Therefore, the need for services in that area is greatly limited."

In regard to "planning," the area consists almost entirely of state and federal land (with some subsurface rights owned by a Native regional corporation). Coastal management and state and federal land use plans are already in place and could not easily be changed by a borough, nor did Kodiak indicate it would try to do so. The decision offered no explanation at all of how planning services would be improved; arguably planning services could suffer due to the dismemberment of the CRSA.

The "economic development" consisted of "salmon enhancement projects" which were never identified in the decision, the DCRA report, or testimony. Worse, there was no finding or evidence that salmon enhancement is actually needed, which would be necessary to meet the standard. Moreover, given exclusive federal jurisdiction on federal lands and ADF&G's authority over fish stocks, it is doubtful that any such borough-sponsered project is feasible. (The LBC decision did not discuss the legal obstacles to it.)

As for "solid waste collection and disposal," the opinion discussed fisheries-related waste disposal in the City of Kodiak and at the Borough's landfill on Kodiak Island. It did not find that such services were needed within the annexed area. Indeed, there was no discussion of such services within the annexed area and the Kodiak Borough did not indicate it would extend such services into the area.

Since there is no population to be served and since planning services are already in place, it is apparent that the LBC bent over backwards to find this standard met. It is quite difficult to conceive of any area in the state which would not meet it as applied.

(b) Application of 10.190(a)(4)

The LBC also found the fourth standard met, that "there is a reasonable likelihood that future growth and development will occur within the territory considered for annexation and that annexation of that territory will enable the borough to plan for and control that development."

The LBC cited testimony from Kodiak officials that "there is potential for development of mineral, oil and gas and fishing activities in the area considered for annexation." The specific examples cited were the federal oil and gas lease sale scheduled for 1990, "likely" growth in the number of offshore processors, and Kodiak's complaint it hadn't been consulted on federal land use plans.

One problem with this analysis is that both the federal lease sale and the growth of offshore processors apply only to the waters and not to the annexed territory on the Alaska Peninsula. Indeed, the federal lease sale will occur by definition outside of state and borough jurisdiction. Likewise, there was no discussion of how the borough could plan for and control the growth of offshore processors, a process that (if true) will likely occur outside the boundary of the state. The reference to federal land use plans is a non sequiter, irrelevent to the issue of whether there is a reasonable likelihood of growth and development.

There was no finding of fact and no evidence of any projected shoreside development in that part of the Alaska Peninsula. No land disposals, no mineral discoveries, no development of canneries or other fishery-related infrastructure were indicated. The LBC did not even look behind the federal lease sale to find if oil is actually expected to be discovered. (In fact, the Shelikoff Strait is not considered a good oil prospect and the lease sale has generated little interested by the oil industry.)

A better interpretation of this standard would apply it to areas experiencing specific, identifiable development that distinquishes them from the unorganized borough in general, or in which such development is planned. Examples would include rapid population growth or industrial or mineral development such as the Red Dog Mine. To extend the standard to areas such as the south side of the Alaska Peninsula, which at most is experiencing slow incremental development no different in scope from that in any other unpopulated area, is to render the standard meaningless.

(c) Application of 10.190(a)(8)

The LBC also concluded that the eighth standard was met, that "the annexation is otherwise necessary to accomplish a valid public purpose." The decision refers to the growth of offshore fish processors which are replacing shore-based processors, thereby diminishing local employment and depriving municipal governments of raw fish taxes. It concludes: "Annexation of the area in question would mitigate these negative effects."

This again is completely irrelevant as applied to the annexed land on the Alaska Peninsula. Even in regard to the waters it is difficult to see how annexation to the borough could curtail the growth of offshore processors, or confine them to the three-mile limit. Although the annexation may give Kodiak more raw fish tax revenues simply by increasing the area in which it collects them, if that is all the standard means then raising revenue alone becomes a "valid public purpose" sufficient to justify annexation.

I. Procedural Problems

A. Timeframe.

The timeframe used by the LBC to reach borough decisions precludes rational decision-making and may in itself violate constitutional standards of due process. The Aleutian's East process took just two months from the filing of the petition to the decisional meeting (May 7 - July 8, 1987). The Kodiak process took just over seven weeks (Oct. 14 - Dec. 4, 1988), and the Lake and Pen process lasted just three and one-half weeks (Nov. 10 - Dec. 4, 1988). It is inconceivable that all factors relevant in applying all the standards to all the boundaries can be adequately weighed in those time frames.

DCRA is under statutory duty to investigate borough proposals. AS 29.05.080. Some indication of the depth of investigation which should be required may be found in the

legislation which authorizes DCRA to contract for borough studies and allows up to three years for completion of the studies. AS 44.47.730. Nowhere near that depth of analysis was given to any of the Bristol Bay proposals.

It is equally impossible for an opponent of a borough proposal to adequately respond in the time allowed. The borough petitioners have months or years to prepare the proposal, and an adequate response would require considerable marshalling of facts, evidence and legal arguments. The LBC's own regulations call for "answering briefs" to be filed (19 AAC 10.390), but no time is provided to prepare them, especially considering that the governing bodies of cities and most other organizations are not in continuous session and need time to react.

Ironically, the LBC has no legal deadline for considering borough petitions. It rushes decisions only as a matter of policy. (Deadlines come into play only after the LBC's public hearing. And, in practice, the LBC doesn't take as long as those deadlines allow.)

B. Notice.

1. Outside the boundary.

One major flaw with the regulations governing notice and public hearings is that as interpreted they don't recognize the rights of those outside of proposed boundaries.

AAC 10.370(a) requires that the petition be served directly on "every municipality in or adjoining the territory." In the unorganized borough, of course, municipal boundaries rarely meet. The only interpretation of this regulation that makes sense in the unorganized borough is to apply it to communities in the adjoining geographical area. The regulation should also be expanded to include unincorporated communities.

The LBC, however, and its staff interpret it to require direct notice only to municipalities with a common legal boundary with the new borough. As a result, in the Lake and Pen process villages in the Nushagak drainage did not receive direct notice of the Lake and Pen proposal, and at the time the decision was made DCRA's mailing list did not include one village or village corporation on the western side of boundary. Nor did it include BBNA or the Southwest Region School District - even though the latter would lose one of its villages to the proposal.

#7

EGEGIK VILLAGE COUNCIL

Box 29
Egegik, Alaska 99579

October 14,1988

Dan Buckworst
Comunity and Regional Affairs
949 E. 36th Avenue
Anchorage, Alaska 99508

Dear Sir,

We listened to the teleconferance on october 11th 1988 concerning Kodiak anexing the east peninsula coast and the Chignik fishing grounds. We are opposed to this annexation for the Following reasons.

1. This area includes our old village of Kanatuk, No one lives there in the winter now. but in the summer it is still used as a camping sight for people from Egegik. And some day may be a town again. This area also includes the Federal Becharoff refuge. Which if we became part of a Bourough ourselves we will want because of the Tourist Hunting and mineral potentials it holds. The people of Kodiak have never lived in this area so they have no right to this land as ground base or economic base. It should be part of the Lake and Peninsula Bourough when Formed soon.

2. The Kodiak Island Borough should not be allowed to take a communities Fishing area with out taking also the City itself, that will rob Chignik for future potencial revnue for the Lake and Peninsula Borough when Formed.

3. We want the potential revenue producing Land and water in our area to remain ours. Not be divided up between other districts that are not even conected to us by any land base, or historical conection.

4. The Communities in the Lake and Peninsula are striving to form our own Borough and should be allowed the time to vote on it before you chop it up and give it away to other boroughs. We as a community are not opposed to being part of a Borough, But we have just found out that we need to form our own in the last 6 months and Community and Regional affairs is presently in the process of doing a study to help us form our own Borough at this time. So we do not think you should allow Kodiak to have what we are asking for also.

Sincerely,

Richard E. Deigh

Richard E.Deigh, President

cc: Local Boundry Commision
Chow Taylor,Com&Reg. Dillingham
Lake and Peninsula School District

RECEIVED
OCT 1988
Dept. of Comm. & Reg. Affairs
Div. of Municipal & Reg. Asst.

EGEGIK IMPROVEMENT CORPORATION
Box 29
Egegik, Alaska 99579

October 30,1988

RECEIVED
NOV 4 1988
Dept. of Comm. & Reg. Affairs
Div. of Municipal & Reg. Asst.

C. Bettisworth, Chairman

Local Boundry Commission
State of Alaska
Community and Regional Affairs
949 E. 36th
Anchorage, Alaska 99508

Dear Mr Bettisworth;

RE: Annexation Petition, Kodiak Island Borough

The Egegik Council is hereby on record in opposition to the Petition by Kodiak Island Borough to annex land on the Alaskan Peninsula.

Page 8 of the petition states that the Kodiak Island Borough is linked to the Alaskan Peninsula by long standing cultural and economic ties. Egegik Village Council goes on record to refute that statement. The Alaska Peninsula area that is in question has more ties to this Community than to Kodiak Island Borough. The Village of Kanatuk, which is now abandoned had residents who came to Egegik to fish in the summer and returned to Kanatuk in the winter. When the children were require to attend school they moved to Egegik perminantly. When mail is forwarded to Kanatuk it is sent to Egegik not Kodiak. If there are any ties to the region in question, it is with Egegik. In point of fact, the remaining decendants of Kanatuk's people reside here in Egegik, when not employed elsewhere, and still have fishing permits for Bristol Bay not Kodiak.'

Page 9 of the petition states that the social and kinship links appear greater between South Kodiak Island Villages and the Alaskan Peninsula. Our question here and it should be yours, is how can there be any social and kinship links where there are no people? You have to have a society and a community to do that.

The petition also states that the major users of the area in question are Kodiak residents. The people of the Village of Egegik use that portion of the Alaskan Peninsula also for camping, clam digging, and hunting. There are also many Professional Guides based out of King Salmon, Egegik, and Pilot Point. Other communities on the Peninsula use the area in question for hunting and fishing. The people of Chignik also use some of this area for commercial fishing.

Page 12 5th paragraph, 1st sentence, states that the Kodiak Island Borough would be able to influence planning and decision making for the area in question. Egegik does [redacted]ment 150 miles away making decisions on land that we use and sh[redacted] True, the Regional Corporation does have land selections on the Alaskan Peninsula, but that was because there was no other land that could be allocated on Kodiak Island. Socially and culturally, the people had closer ties with the former people of the region in question, through the now abandoned village of Kanatuk.

Page 15 of the petition under standard 3, states that the territory is in need of municipal services which the organized borough can provide more efficiently than another municipality. The question you need to ask is what services and to who? The petition states on page 9, 5th parsgraph, that the Kodiak Island Borough is

not proposing to annex any of the established villages or cities on the Alaska Peninsula. How can the borough provide a municipal service when there is no municipality to provide it to in the area in question.

Page 16, standard 4, 3rd paragraph states that there is mineral potential in the area. It [redacted] Council's position that if mineral development take place it should be [redacted] dictates from a government based on the Alaskan Peninsula, not the [redacted] Borough. The rationale here is that the Kodiak Island Borough is 150 miles away and the people of Egegik would have no influence on policy decisions in the area in question.

Page 17, 3rd paragraph, 2nd sentence once again states thet the Kodiak Island residents are the primary users of the area. A check with the State of Alaska, Guide Licensing and Control Board, shows that 30 use the approximate area, based out of King Salmon alone, as well as residents from the other communities on the Alaska Peninsula!

Page 17, States that the welfare, health and safety of the residents of the organized borough is endangered by conditions existing, on development in the territory and annexation will enable the organized borough to remove or relieve those conditions. We don't know what kind of dangers Kodiak has but we do not want their problems transfered to land close to us and how can giving them land help them get rid of whatever dangers they may have? Kodiak Island Borough states that it would provide land use regulations that provide for orderly growth in the area. Your question should be what orderly growth of the area and for what purpose? No one to my Knowledge actually lives in the area in Question and the Dept. of Fish and Game already handles the Hunting and Fishing Regulations.

Page 19, Standard 4, states that at least 1,000 people are located within the area. Of course Kodiak Island has 17,000 people, but there are no people and no organized communities in the area that they purpose to annex. It is assumed that the area stated here is the area in question, namely the land mass of the Alaska Peninsula that Kodiak wants to annex. For the record there are not 1,000 people residing in the area unless you count the caribou!

Page 19, Standard 5, refers to a regional education attendance area and educational services. The Kodiak Island Borough proposes to provide educational services should any new communities be created. Let it be pointed out that the area in question is already in the jurisdiction of the Lake and Peninsula Regional Education Attendance Area. The statement that Lake and Peninsula does not provide education services in the area in question is true only because there's no one there to receive them.

Regarding the specific Requiements of AS29.05.031 (a) (Formorly A.S.29.18.030):
Standard 1 refers to the population of the area being interrelated, etc. The area in question, Alaskan Peninsula has no population per se.(Alaskan Peninsula Exhibit 2, page 26 Annexation Petition)
Standard 2, page 20, refers to the boundaries of the proposed borough conforming to generally natural geography. It is suggested that the Kodiak Island Borough restrict its boundaries to the natural geography outlined by its name, Kodiak Island Borough.

Page 20, standard 3, should refer to the area in question, not the existing borough. Here again it is stated that the Borough can provide municipal services to the annexed area. What municipal services can the Borough provide to the Alaskan Peninsula when there is no one residing in the area? How can the Kodiak Island Borough propose to provide services on the one hand and propose not to include the established villages in the other hand?

Page 21, standard 3, refers to Transportation Facilities. It is required that the communities in a borough be linked by an established daily system which does not exist to the region from Kodiak. The nearest transportation link to Kodiak is Chignik and it is proposed not to be included in the annexation. It is stated that the area in question has a current transportation system with Kodiak, (this simply is not true and has the capability of providing increased service. How can transportation increase when there is no one residing in the area now?

Finally, in referance to the new regulations [19 AAC 10.835. (d)] and the standards followed by the Local Boundry Commission:
Standand 1: states that again the Kodiak Island Borough is better able to provide services to the Alaskan Peninsula. How can the borough offer services but not include established villages? (9, 5th paragraph. Annexation Petition, Kodiak Island Borough) Again there's the statement that the area in question, (Alaska Peninsula) is predominently used by current Kodiak Island Borough residents. Egegik Council disagrees that they use it more than we do . The area in question is used by over 74 professional guides and all local residents at one time or another and the people of Chignik commercial fish there every year. The area is used by all the people of the Alaska Peninsula for hunting or fishing. Finally the Village of Egegik does not beleive that Kodiak Island Borough meets or exceeds the standards required for Annexation, especially that area that includes the Alaskan Peninsula.

Sincerely,

Richard E. Deigh

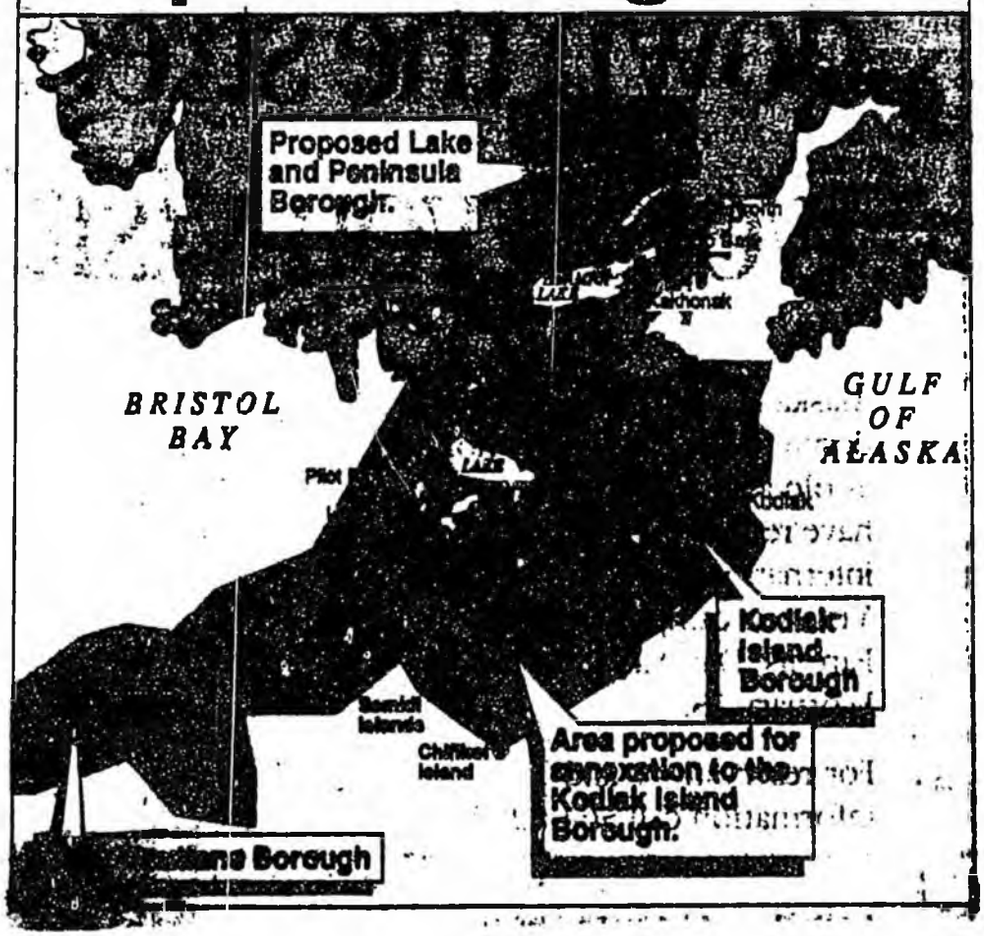
Richard E. Deigh, President

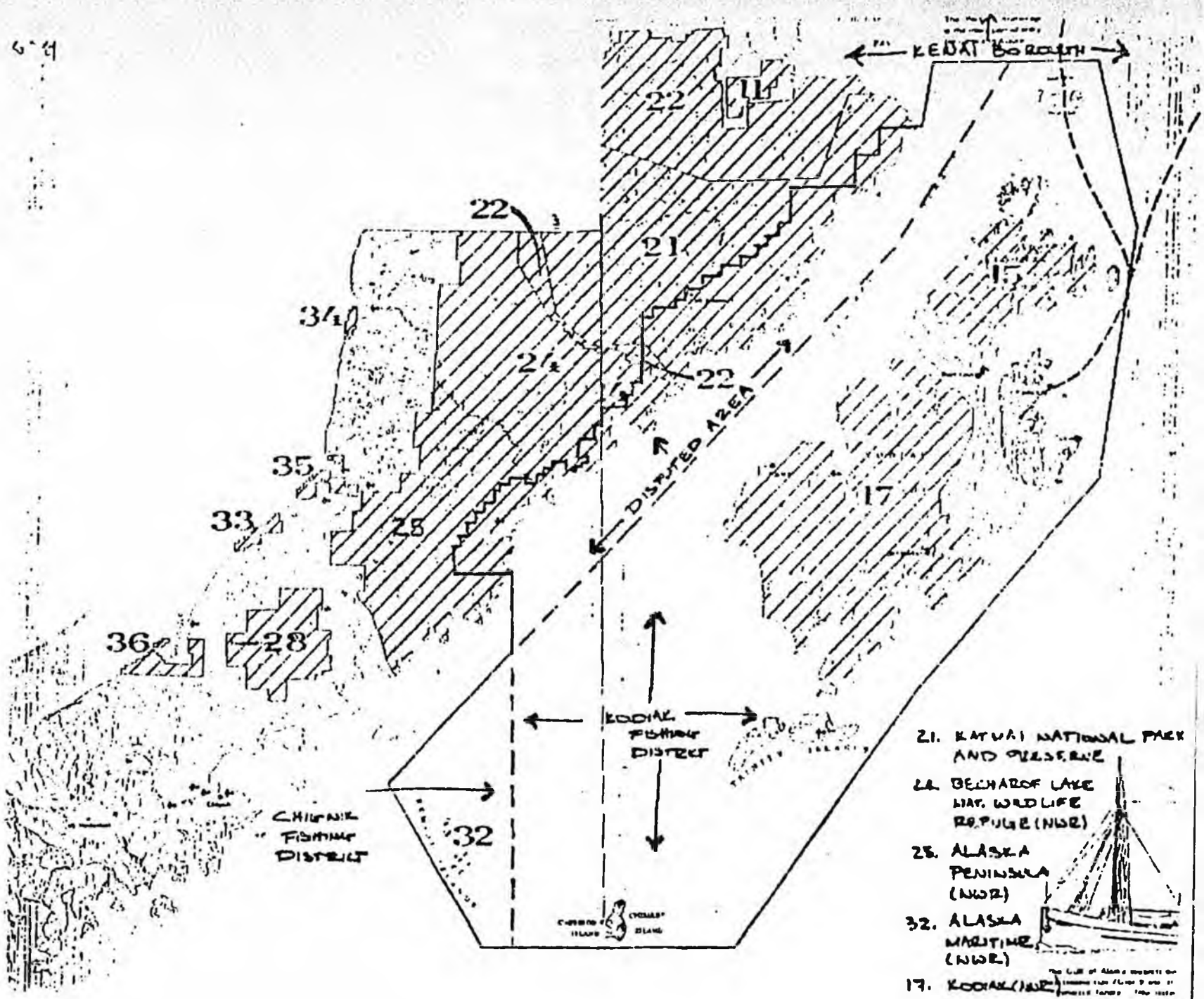
REFER TO KODIAK ISLAND ANEXATION PETITION
DATED OCTOBER 13,1988, FOR INFORMATION

cc: Pilot point Village Council
Ugashik Village Council
Frank Hill, Superintendant, Lake and Peninsula School District
Sue Flensburg, Bristol Bay Coastal Resourse Service Area
Bristol Bay Times and Dutch Harbor Fisherman
David Hoffman, Commissioner, DCRA
Anchorage Dailey News
Senator Fred Zharoff
Jim Clark, Bristol Bay Borough
K. Jerome Selby, Kodiak Island Borough
Borough Post, Naknek

#8

Proposed Borough Plans




KENAI BOROUGH
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DISPUTED AREA
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KODIAK FISHING DISTRICT
CHIGNIK FISHING DISTRICT
32
21. KATMAI NATIONAL PARK AND PRESERVE
22. BECHAROF LAKE NAT. WILDLIFE REFUGE (NWR)
28. ALASKA PENINSULA (NWR)
32. ALASKA MARITIME (NWR)
17. KODIAK (NWR)

#9

LBC RECOMMENDATION TO THE FIRST SESSION
OF THE SIXTEENTH STATE LEGISLATURE

ANNEXATION TO THE KODIAK ISLAND BOROUGH

SUMMARY OF PROPOSED ANNEXATION

On October 14, 1988, under the provisions of *AS 29.06.040(b)*, the Kodiak Island Borough submitted a petition for annexation of approximately 12,825 square miles. The territory was comprised of approximately 2,130 square miles of land and approximately 10,695 square miles of water.

On November 10, 1988, voters in the adjacent Lake and Peninsula REAA petitioned for the incorporation of a home rule borough encompassing an estimated 26,675 square miles of land and waters offshore. Nearly all of the estimated 2,130 square miles of land and much of the waters sought for annexation by the Kodiak Island Borough were also included in the area proposed for incorporation.

On December 2, 3 and 4, 1988, a series of public hearings were scheduled to be held by the Commission in the communities of Kodiak, Iliamna, Port Heiden and Chignik Bay concerning the proposed borough incorporation and the proposed annexation of a portion of the same territory to the Kodiak Island Borough. Weather and technical problems at two airports however, forced the Commission to conduct these meetings via teleconference from Anchorage with all communities scheduled for hearings.

A decisional session was held December 4, 1988 in Anchorage. The four participating Commission members voted 3 to 1 to approve the annexation petition with amended boundaries. The amended boundaries resulted in exclusion of that portion of the Alaska Peninsula and waters offshore lying southwest of Cape Kilokak. The area approved for annexation consists of that portion of the Alaska Peninsula which drains into the mainland district of the Alaska Department of Fish and Game Kodiak Area Salmon District (Cape Douglas to Cape Kilokak), Chirikof Island, the Semidi Islands and the waters offshore of these lands (see Exhibit A). Much of the water area is presently outside the boundaries of the State (and thus the potential jurisdiction of the Borough). However, Borough officials anticipate that actions contemplated by the federal government may extend the jurisdiction of the State and the Borough in this area.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

In arriving at its findings, the LBC has considered documents and evidence including but not limited to, the petition for annexation, accompanying brief, the report and recommendation of the Department, and oral testimony provided during the series of public hearings on December 2, 3 and 4. Because of the competing nature of the annexation petition from the Kodiak Island Borough and the borough incorporation

petition from the Lake and Peninsula area, the findings of fact and conclusions of law listed below include consideration of the competing petition standards as well as other standards for annexation and incorporation. For the sake of expediency, only those standards satisfied by each petition are discussed. If the standard is not mentioned, it may be assumed that it was not met.

I. Under competing petitions standards, it is appropriate that those lands on the Alaska Peninsula which drain into Shelikof Strait and the Pacific Ocean from the Kenai Peninsula Borough boundaries to Cape Kilokak and the waters offshore be included within the Kodiak Island Borough rather than the proposed Lake and Peninsula Borough.

a. Ability to Serve the Territory in Question

The proposed Lake and Peninsula Borough would initially exercise only the powers of education, planning and tax collection. As the need arose, the Borough could assume other powers. The Kodiak Island Borough currently exercises (on an areawide or non-areawide basis), the powers of solid waste collection and disposal and economic development along with other required and discretionary powers.

The territory in question is unpopulated, therefore the need for services is greatly limited. Both the Kodiak Island Borough and the proposed Lake and Peninsula Borough would have the capacity to provide the required degree of planning, land use regulation and tax collection and assessment.

However, the Kodiak Island Borough exercises the power of economic development by engaging in commercial salmon enhancement activities within its boundaries. It is estimated that 67 salmon streams exist in that portion of the Alaska Peninsula which drains into the Alaska Department of Fish and Game Kodiak Area Salmon District (within the contested area). Commercial harvests of salmon, herring, bottomfish and shrimp in this district are carried out predominantly by residents of the Kodiak Island Borough. It is unlikely that the Lake and Peninsula Borough would spend funds for salmon enhancement for the principal benefit of residents of an adjacent borough if this area were included within its boundaries.

Further, the Kodiak Island Borough provides solid waste collection and disposal within the City of Kodiak and the area outside of all other cities in the borough. The Borough anticipates expansion of this service as a result of recently enacted federal legislation known as MARPOL which was effective December 31, 1988.

Given the service needs relating to economic development and solid waste collection and disposal, the Commission found that the Kodiak Island Borough would be better able to serve that portion of the Peninsula which drains into the Kodiak Area Salmon

District and the waters offshore.

b. Importance of the Region to the Financial Viability of each Competing Entity

The contested area offers relatively little to either municipality in revenues from the State Business Fisheries Tax. Fish processing may occur on floating bottomfish catcher/processors, many of whom operate outside of the jurisdiction of the State. Thus the potential for revenues to either borough from the State Business Fisheries Tax from this activity would be limited.

The contested area is estimated by the Kodiak Island Borough to have a taxable value of $5,110,000. That value represents approximately 1.2% of the total value of taxable property within the Kodiak Island Borough. Given the current levy of ad valorem taxes, the Kodiak Island Borough would generate $22,995 in revenues from the entire area proposed for annexation. However, the portion of the area proposed for annexation consisting of the land on the Peninsula which drains into the Kodiak Area Salmon District is reported to be owned almost entirely by the State and Federal governments. It is believed that the Koniag Regional Corporation owns limited oil and gas subsurface rights in the area around Wide Bay. The value of those rights, if any, is undetermined. As such, the particular area in question has virtually no taxable value and would provide the Kodiak Island Borough with no opportunity to generate property tax revenues. The contested area represents an estimated 15.9% of the total property value within the Lake and Peninsula Borough. However, that prospective borough does not propose to levy a property tax. Therefore, the area means no loss in potential ad valorem taxes to the prospective Lake and Peninsula Borough.

The potential for revenues from a municipal sales and use tax on commercial fishing in the contested area is more significant to the proposed Lake and Peninsula Borough than to the Kodiak Island borough. Currently the Kodiak Island Borough levies no sales tax. The proposed Lake and Peninsula Borough will levy a 1% sales and use tax. Although the precise structure of the proposed sales and use tax is unknown at this time, the tax could be levied at the point of sale of the fish as currently implemented by at least one other borough in the state. The Alaska Department of Fish and Game in Kodiak has reported that the 1988 value of salmon caught for the mainland of the Kodiak Management Area (from Cape Douglas to Cape Kilokak) was $13,938,400. Noting that this was an unusually large catch (30% - 50% higher than the average poundage for the area) with record prices, the Department of Community and Regional Affairs conservatively estimated the value of the annual harvest of salmon in the area at $6,000,000. Since the Kodiak Island Borough levies no sales and use tax, these fish offer no sales or use tax revenues to it. However, since the Lake and Peninsula Borough will levy a 1% sales and use tax, these salmon represent a potential $60,000 in annual revenues to the new Borough. That amount represents 6.9% of the total local revenues for the Lake and

Peninsula Borough. However, in relative terms of total revenues (local, state and federal), the $60,000 amounts to only 0.8% of the income anticipated by the Borough in FY 92.

In relative terms, the territory is more important to the financial viability of the Lake and Peninsula Borough than it is to the Kodiak Island Borough. The potential revenues generated within the area represent 6.9% of the locally generated revenues of the Lake and Peninsula Borough and only 1.2% (0% in the area which drains into the Kodiak Area Salmon District) of the locally generated revenues of the Kodiak Island Borough.

However, in absolute terms the importance of the contested area to the financial viability of each of the competing entities is much different. At most, there would be an estimated annual loss of $60,000 to the Lake and Peninsula Borough if the area were included within the Kodiak Island Borough. The loss to the Kodiak Island Borough would represent a maximum annual loss of $22,995. The loss of such funds to either entity would not render either one infeasible. Therefore, while the Commission found that in relative terms the area is more important financially to the Lake and Peninsula Borough, the level of funding involved is so small (less than 1% of the projected FY 92 budget of the Lake and Peninsula Borough) that this factor was given minimal consideration in judging the competing interests.

c. Satisfaction of Standards for Annexation and Incorporation.

Of the many standards which apply to incorporation and annexation proposals, the principal ones of interest here which have not yet been examined relate to the social, cultural and economic interrelationship between the populations of each competing entity within the area in question and how this area conforms to the natural geography of the area encompassed by the competing entities.

Those lands on the Alaska Peninsula which drain into Shelikof Strait and the Pacific Ocean ranging from the Kenai Peninsula Borough boundaries to Cape Kilokak and the waters offshore are of vital economic importance to the residents of the Kodiak Island Borough. As noted earlier, the waters in this area comprise the Kodiak Area Salmon District (Mainland District). The area also includes most, but not all of the Kodiak Shellfish District. Commercial harvests of salmon, herring, bottomfish, shrimp and crab in these waters are carried out predominantly by residents of the Kodiak Island Borough. Kodiak area fishermen also use the uplands for storage of fishing gear. If the area were included within the proposed Lake and Peninsula Borough, it is unlikely that sales and use taxes levied in the area in question by that government would be used to support services and facilities available to those paying the tax in that particular area. In other boroughs (notably the Aleutians East Borough and the Bristol Bay Borough) those who pay taxes on fish caught in those respective regions also use the public facilities and services located in those areas.

To divide the Shelikof Strait so the waters are located within two separate boroughs would likely create problems in the management of the area. Difficulties in the enforcement of municipal tax levies and the management of natural resources (particularly commercial fishing) are likely to result.

Cultural and historical ties to the territory in question exist for the areas within the Kodiak Island Borough as well as the Lake and Peninsula Borough. Based on testimony and documents submitted to the Commission, the strength of these ties appears to be equal if not greater for the Kodiak Island Borough.

The area in question is also more geographically related to the Kodiak Island Borough than to the proposed Lake and Peninsula Borough. The Aleutian Range on the Alaska Peninsula, which determines river drainage patterns, serves as a natural topographical divider for those rivers that drain into Shelikof Strait. The Strait in turn unites the rivers on Kodiak Island with these same rivers as a common drainage basin.

The Commission found that the appropriate standards for annexation and incorporation support the inclusion into the Kodiak Island Borough of those lands on the Alaska Peninsula which drain into Shelikof Strait and the Pacific Ocean ranging from the Kenai Peninsula Borough boundaries to Cape Kilokak and the waters offshore. Further references to the territory considered for annexation include the territory described in this section plus those areas proposed for annexation to the Kodiak Island Borough which do not overlap the territory proposed for incorporation by the Lake and Peninsula Borough.

II. The territory considered for annexation is in need of municipal services which the Borough can provide more efficiently than another municipality or the State

As previously noted, much of the contested area is in need of planning, economic development and solid waste collection and disposal services which can best be provided by the Kodiak Island Borough. The facts which supported that conclusion also support the conclusion that the entire area considered for annexation is in need of municipal services which the Kodiak Island Borough can provide most efficiently.

III. There is a reasonable likelihood that future growth and development will occur within the territory considered for annexation and that annexation of that territory will enable the Borough to plan for and control that development

Kodiak Island Borough officials testified that there is potential for development of mineral, oil and gas and fishing activities in the area considered for annexation. The petitioner has observed that mineral exploration continues to take place in the area considered for annexation. Oil and gas lease sale #114 is scheduled to be held by the

Federal government in September of 1990. Both activities have the potential for resource development and attendant impact on the area considered for annexation.

The petitioner has observed growth in the number of offshore floating processors in this area. While the actual number of fish processors will certainly fluctuate with the fish harvest, the petitioner observes that it is likely the area will see added growth in the use of offshore processors since it is also likely that larger and more varied fish harvests will be experienced in the future.

Finally, officials of the Kodiak Island Borough have testified that the Federal government has prepared and carried out plans for the management of lands in the area considered for annexation without regard to their concerns. Annexation of the area will allow more extensive and influential input from the borough on the use and management of these lands.

IV. The annexation is otherwise necessary to accomplish a valid public purpose

The Kodiak Island Borough noted that the number of offshore processors, which typically operate with self-contained out-of-state crews, has increased substantially in recent years. The petitioner contends that these processors have attracted the fish which would normally be delivered to on-shore facilities, thus denying the Borough the proportionate amount of raw fish tax revenues as well as its residents the dollars that would normally be dispersed into the local economy. The economic welfare of the region is thus negatively affected. Annexation of the area in question would mitigate these negative effects.

V. The Kodiak Island Borough is capable of and willing to extend areawide and non-areawide services to the area considered for annexation

As indicated earlier, the need for services in the area considered for annexation is limited. The extension of areawide and non-areawide services to this territory would require little expenditure by the Borough. The Kodiak Island Borough appears willing and capable of serving the contested area.

VI. The Kodiak Island Borough, with the addition of the area considered for annexation, still satisfies the standards for incorporation of a borough as required by *19 AAC 10.220*

A. The population within the expanded boundaries of the borough remains interrelated and integrated as to its social, cultural, and economic activities. The area proposed for annexation is uninhabited. However, as noted earlier there are strong social, cultural and economic ties between the area considered for annexation and the population of the Borough.

B. The population within the expanded boundaries of the borough remains large and stable enough to support borough government. Again, since the area considered for annexation is uninhabited, the size and stability of the Borough's population would not be affected by the annexation.

C. The expanded boundaries of the borough still conform generally to natural geography and include all areas necessary for full development of municipal services. With the annexation, the Borough's boundaries would follow the natural geography of the region.

D. The economy of the expanded borough still includes the human and financial resources capable of providing municipal services. Again, because there is no population change, the annexation would have no effect on the human resources of the Kodiak Island Borough. Any impact on the financial resources of the Borough would be positive.

E. The land, water and air transportation facilities of the expanded borough still allow the communication and exchange necessary for the development of integrated borough government. This annexation will not affect the ability of residents of the Kodiak Island Borough to communicate and interrelate.

LBC DECISION AND RECOMMENDATION

Based upon the findings of fact and conclusions of law summarized herein, the proposed annexation of approximately 12,825 square miles of territory to the Kodiak Island Borough does not, in its entirety, satisfy the applicable requirements of State statute and regulation regarding annexation of contiguous and competing territory to a borough. However, there is an approximate 12,343 square mile area which has been found to satisfy these requirements.

THEREFORE, the Commission ordered the amendment of the petition to include: 1. (with respect to the area in competition involving the proposed Lake and Peninsula Borough) only those lands on the Alaska Peninsula which drain into Shelikof Strait and the Pacific Ocean from the Kenai Peninsula Borough Boundaries to Cape Kilokak and the waters offshore; and 2. all other territory sought for annexation by the Kodiak Island Borough.

IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE X, SECTION 12 OF THE STATE CONSTITUTION, the Commission hereby recommends to the First Session of the Sixteenth Legislature, the annexation of the territory described herein. The resulting boundary description of the Kodiak Island Borough reads as follows:

#10

Article 7. Standards for Annexation to Organized Boroughs

Section
185. Applicability
190. Annexable territory
200. Application of standards
210. Annexation of incorporated territory
220. Statutory standards

19 AAC 10.185. APPLICABILITY. The provisions of 19 AAC 10.190 — 19 AAC 10.220 apply to a proposal for annexation by local action (19 AAC 10.630 — 19 AAC 10.730) or by legislative review (19 AAC 10.450 — 19 AAC 10.620). (Eff. 2/21/82, Register 81)

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

19 AAC 10.190. ANNEXABLE TERRITORY. (a) Territory which is contiguous to an organized borough may be annexed to that borough if one or more of the following standards are met:

(1) the contiguous territory is totally surrounded by the organized borough's boundaries;

(2) the land in the territory is wholly owned by the organized borough;

(3) the territory is in need of municipal services which the organized borough can provide more efficiently than another municipality or the state;

(4) 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;

(5) the health, welfare, or safety of the residents of the organized borough is endangered by conditions existing or developing in the territory and annexation will enable the organized borough to remove or relieve those conditions;

(6) the extension into the territory of borough services or facilities is necessary to enable the organized borough to provide adequate service to residents of the organized borough, and it is impossible or impractical for the organized borough to extend the facilities or services unless the territory is within the organized borough's boundaries;

(7) residents or property owners within the territory 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; or

(8) the annexation is otherwise necessary to accomplish a valid public purpose.

(b) Territory which is not contiguous to the borough may be annexed to the borough if

(1) the land in the territory is wholly owned or leased by the borough or used primarily for the performance of borough functions; and

(2) annexation is necessary to enable the borough to achieve adequate control, protection or management of the property.

(c) Contiguous territory which does not meet the requirements of (a) of this section may nevertheless be annexed to a borough if the territory lies between the borough boundary and noncontiguous territory which does meet the requirements of (a) of this section.

(d) In determining whether the standard established in (a)(7) of this section is met, the commission will consider alternate methods available to the borough for offsetting the cost of providing services to individuals or property beyond its property taxation powers.

(e) The commission will, in its discretion, conduct public hearings or investigations after a detachment to determine if the service requirements of the territory are being met. If the commission determines that the service requirements of the territory are not being met, it will, in its discretion, begin annexation proceedings under this chapter. (Eff. 2/21/82, Register 81)

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

Editor's notes. — 19 AAC 10.190 is based on a former version of 19 AAC 05.110.

19 AAC 10.200. APPLICATION OF STANDARDS. The commission will not approve an annexation unless the annexing organized borough demonstrates to the satisfaction of the commission that it is capable of extending and willing to extend services to the annexed area in accordance with this subsection. If possible, areawide and nonareawide borough services shall be extended to the annexed area immediately. If the immediate extension of services is not possible, the commission must be satisfied that the services not immediately extended will be extended as soon as possible and that reasonable plans have been formulated for the capital expansion necessary for the extension of services. (Eff. 2/21/82, Register 81)

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

Editor's notes. — 19 AAC 10.200 is based on a former version of 19 AAC 05.120.

19 AAC 10.210. ANNEXATION OF INCORPORATED TERRITORY. (a) If the territory sought to be annexed includes part of another organized borough which is providing services to the territory that the annexing borough will provide upon annexation, the commission will determine the method by which assets and liabilities are to be distributed between the annexing borough and the borough formerly providing the services.

(b) In determining the method of transfer of service responsibility and the distribution of assets and liabilities, the commission will, in its 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, Register 81)

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

Editor's notes. — 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, Register 81)

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

Editor's notes. — 19 AAC 10.220 is based on a former version of 19 AAC 05.140.

lan for new borough fuels debate on Alaska Peninsula

OCIATED PRESS

plan to create a new borough on the ska Peninsula is causing a tangle of le lines to be drawn in communities ughout the region.

t issue are taxes, control over fish and r resources and whether another r of government is necessary.

me of it may be sorted out in April, residents vote on whether to form ew Lakes and Peninsula Borough.

e battle began two years ago, when state's Local Boundary Commission oved the new East Aleutians Bor-

ninsula residents were furious. The new borough's boundaries stretched to the edge of two peninsula villages, enabling the new government to collect thousands of dollars a year in fish taxes from fisherman working waters off the peninsula.

The school board started talking about forming a borough to keep others from gobbling up more of the area.

"They felt like they were being picked on," said Bruce Baltar, a lawyer for the Bristol Bay Native Association, which works with villages in the area. "It was a land grab and they were mad about it. They didn't want it to happen again."

Within months, though, the peninsula was being picked at from another direction. Officials from the Kodiak Island Borough launched a bid to annex a long strip of peninsula land south of the Alaska Range, as well as a big strip of the salmon-rich Shelikof Strait.

State officials approved the annexation in January. Unless the legislature blocks it, that part of the peninsula becomes part of the Kodiak Island Borough on March 4.

Meanwhile, backers of Lakes-Peninsula Borough wrote a petition last year, with proposed borders stretching from north of Lake Clark down to the Aleutians East border. Enough signatures were gathered among the 1,800 people who live in the area to put it on the ballot April 11.

Supporters think it could mean more money for schools in the region, and say they don't envision many government services beyond that.

"We'd rather have our own borough controlled by people from around here than be taken over by Kodiak or Kenai," says Wassillie Balluta of Newhalen, a village of 160 on Iliamna Lake.

Those opposed don't want taxes on local resources going elsewhere.

"We're just not interested in seeing our fish taxes going outside the community," says Ron Bowers, a member of the Chignik council who is also fire chief and public safety officer.

2/2/89 Anch Times

TESTIMONY ON HJR-23 (KODIAK ANNEXATION)

By Bruce Baltar, Bristol Bay Native Association

House Community and Regional Affairs Committee
February 14, 1989

Thank you, Chairperson Maclean. My name is Bruce Baltar and I'm an attorney employed by the Bristol Bay Native Association, which is the regional non-profit corporation for the 30 villages of Bristol Bay. Our address is Box 310, Dillingham, Alaska 99576.

I'd like to first respond to the remarks made by the folks from Kodiak. All the "taxation without representation" rhetoric is a smokescreen utterly irrelevant to the issue at hand. It's a prime example of how throughout this process Kodiak has succeeded in diverting attention away from the actual standards for annexation. While I can understand that Kodiak-based fishermen don't want to be taxed by Lake and Pen, at most that's a public policy argument against Lake and Pen's proposal that says nothing at all about Kodiak's.

The issue in these competing proposals has never been a mere balancing of interests under identical standards. Lake and Pen had only to meet the standards for original incorporations while Kodiak had to meet those standards plus the ones for annexation. Kodiak's claim has to stand on its own merit regardless of what Lake and Pen is doing. The taxation argument is a red herring because blocking another community from taxing an area is not, by law, a justification for annexation.

Even as public policy the the taxation without representation argument doesn't bear scrutiny. By Mayor Selby's reasoning we should never have let the North Slope Borough incorporate and tax Prudhoe Bay. After all, the oil companies and most of their workers don't come from Barrow. Fishermen travel all over the place. Most Bristol Bay permit holders, for example, come from outside the region. Should we let Anchorage or Seattle annex Bristol Bay? Kodiak is such a large fishing port it could end up with much of western Alaska under that logic.

Mr. Selby's scoffing at the "contiguous" argument also diverts attention from the actual issue. No one argues, of course, that non-contiguous areas can never be part of a borough. But Kodiak is trying to annex territory under regulations which specifically apply only to contiguous territory. Different standards - which Mayor Selby knows Kodiak can't meet - have been established for non-contiguous annexations. As for the Attorney General's opinion on contiguity, it was made in a different factual context and in my view supports a legislative veto because it required the

LBC to make findings of fact that it never made. The LBC did not even consider the issue.

I'd also like to point out a basic geographic fact that Kodiak prefers to ignore. The Shelikof Strait is 30 miles wide, while this annexation will take in only three miles of waters along the Alaska Peninsula. The rest will remain outside the borough because it is outside the territorial limits of Alaska. Kodiak's arguments relating to the growth of the bottom fishery and offshore processing speak to the strait as a whole and it is impossible to tell from those arguments how much, if any, of this activity occurs within the annexation area.

Another point is that while most of Kodiak's arguments are based ultimately on the commercial fisheries, the bulk of the annexation area is land, to which those arguments don't apply. And in any event the commercial fisheries will remain under the exclusive management authority of ADF&G.

I'd like to bring us back to reality by focusing on the contested territory as it relates to the actual standards for annexation. All the annexed land is within Katmai National Park or the Becharof and Alaska Peninsula National Wildlife Refuges. More than half is in Katmai. All of this part of Katmai is Congressionally-designated wilderness. All of the relevant part of Becharof is also wilderness or proposed wilderness, and the Alaska Peninsula Refuge lands are classified for "minimum management," which is the next most restrictive category. Federal management plans are already in place and basically prohibit development, including fishery support services, mineral development, most types of fish enhancement - you name it. The plans are designed to keep fish and wildlife resources in the natural state under the maximum possible protection.

While of less significance given federal control, the state's coastal management and area land use plans are also in place and make protection of fish top priority.

The enclaves of state and private land where development could theoretically occur are insignificant. None of the rivers have been identified as navigable, so the water columns and stream beds are federal. There are three undeveloped parcels of a few acres each in Katmai, all owned by the Russian Orthodox Church. Within the refuges are a couple of Native allotments and about a half-section of patented state land at Wide Bay, which contains a landing strip for an abandoned exploratory oil well.

Although there are other state selections, and Koniag has selected about 60 sections of oil and gas subsurface interests, federal authorities say these have not been conveyed. The state lands, at least, probably will never

will be. (The patented Koniag oil and gas interests Mayor Selby referred to are outside the territory.) Considered in total the inholdings are miniscule given the scale of the annexed area.

There are no inhabitants in the area, no lodges, no mineral entries, no canneries or other fishery infrastructure. Although there are some lands identified as "mineral," none have high potential. The federal management authorities are not aware of a single development project of any sort in the annexation territory and every single one that Kodiak mentions is outside the annexed territory.

In short, the justifications raised by Kodiak and relied upon by the LBC don't make a bit of sense when the annexation standards are applied to this territory. Looking briefly at the three regulatory standards the LBC found met, the first states: "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).

The LBC said this standard was met because the area needs "planning, economic development and solid waste collection and disposal services." That's absurd given the total lack of actual or planned onshore development, the unavailability of land for development, exclusive federal planning jurisdiction over the lands, the level of planning already in place, and ADF&G's authority over commercial fisheries. There is no need for municipal services, and Kodiak would not have the power to provide them if there was.

The only possible borough-sponsored economic development activity cited by Kodiak or the LBC is "salmon enhancement." But to this day no one has identified a single salmon enhancement project that is actually needed. The experts at ADF&G say that enhancement projects in this area are not biologically justified due to the nature of the runs and spawning grounds. Even if Kodiak could identify practical projects, to meet the standard it would still have to show that they would be allowed under the federal plans and that Kodiak it is better able to perform them than ADF&G.

As for marine waste disposal and MARPOL, that whole argument is a kind of sleight-of-hand. Kodiak hasn't even suggested it would actually provide this service within the annexed territory as required by the standard. Nor could it, because there is no available site. Instead, Kodiak says it meets the waste disposal needs of the region at disposal sites on Kodiak Island. Logically, if that is true the annexation standard cannot be met because there is no need for the services in the annexed territory.

Kodiak has not come up with a single way in which annexation will affect waste disposal. Rather it implies

that because of fishing activity in the annexation area it incurs waste disposal costs without compensation. But Kodiak already receives the raw fish taxes from the annexation territory and other areas outside the borough because the fish are processed on Kodiak Island. And if compensation is a problem, Kodiak can always charge for the service.

The next standard relied upon is that "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.

Again, it is difficult to conceive of any area less likely to meet this standard than the area Kodiak annexed. The LBC merely cited generally "a potential for development of mineral, oil and gas and fishing activities," and more specifically the planned federal oil lease sale and "the growth of offshore processors."

It seems obvious that "a potential for development" is a far cry from a reasonable likelihood that development will actually occur, which is what the standard says. The only "development" in the area is commercial fishing, which is beyond the power of a borough to control.

The migration of processing offshore just isn't happening. According to ADF&G the salmon and herring harvested in this area are delivered exclusively to shore-based Kodiak processors. While there is growth of offshore bottomfish processing in southwestern Alaska, there is nothing in the record showing this is happening in the waters Kodiak actually annexed and no indication the borough could realistically "plan for and control it" if it does.

In regard to the federal offshore lease sale scheduled for 1990, it will take place in federal waters outside borough control, and there is no site or infrastructure for shoreside support services in the annexed area. Besides which, the U.S. Minerals Management Service says there is only a 3% probabality of finding oil in commercially recoverable quantities. For the life of me, I can't see how a 97% probability that they won't find oil constitutes a "reasonable likelihood" that they will.

As for other possible development, the only land area not locked up is Koniag's small area of oil and gas selections near Wide Bay which are not yet conveyed. Exploration took place there 30 years ago, and nothing was found. According to the federal resource assessments, the places with highest oil and gas potential are on the other side of the peninsula outside the annexation territory, and even those are not particularly promising. Any other mineral development is absurd since there are no mineral entries and no mineral lands with high potential.

The LBC also found a third standard met, that the "annexation is otherwise necessary for a valid public purpose." 19 AAC 10.190(5). It based this conclusion on the growth of offshore processing and said, without explanation, that the annexation would mitigate the negative effects of that growth. That makes no sense whatsoever for the reasons previously mentioned. The only conceivable "mitigation" would simply be in the form of increasing the borough's revenue base, which alone is not be a valid basis for annexation.

To sum up, it is absolutely clear that this annexation does not come close to meeting the standards under any rational interpretation. Common sense tells you the standards were meant to apply to adjacent areas where there is growth and development requiring the expansion of municipal services. No significant growth is even possible in this area, much less likely. No additional services are needed, and Kodiak will not provide any.

From today's testimony it is apparent that the real reason Kodiak wants the area is simply to keep anyone else from getting it. Like everyone else, Kodiak fishermen don't like to pay taxes. But that is not a valid public purpose and certainly is not legally a justification for annexation. And while Mayor Selby is correct that Kodiak will not immediately derive additional revenue from this territory, the fact remains that it is potential revenue source that Kodiak wants to lock up.

These annexation disputes are not just local squabbles of no statewide concern. It is bad public policy to continue concentrating resources in relatively wealthy and politically powerful communities at the expense of villages with few jobs and no tax base. Moreover, the LBC decision approving the Kodiak annexation exemplifies the LBC's practice of disregarding its own legally constituted standards. A standardless system has resulted at a time when there is more and more political and economic pressure to form or expand boroughs. A statewide planning fiasco is in the making, and that should be of profound concern to the legislature.

So far, no one has held the LBC to account. But their decisions are so bad in terms of analysis as to almost guarantee that they will be litigated, at untold cost to the state. The constitution gives the legislature oversight of annexation decisions, and it could and should send a clear message that the LBC must clean up its act. HJR-23 should be passed.

PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE JACKO

NAME: GLEN KALMAKOFF
TITLE:
ADDRESS: GENERAL DELIVERY
CITY: IVANOF BAY, ALASKA ZIP: 99502
PHONE: 669-2205
BILL NO: HJR 23
SUBJECT: DISAPPROVE KODIAK ISLAND BORO ANNEXATION
MESSAGE: WOULD LIKE YOU TO KNOW THAT I OPPOSE THE KODIAK BORO ANNEXATION PROPOSAL. LAND AND WATER IN THE ANNEXATION SHOULD REMAIN WITH THE PEOPLE WHO HAVE TRADITIONALLY USED THIS AREA. KANATAK WAS MOVED TO PERRYVILLE WHEN KATMAI ADOPTED, MY PARENTS AND OTHERS ARE CLOSELY TIED TO THAT LAND. THE LBC SHOULD REVERSE THEIR RECOMMENDATION. URGE THAT YOU SUPPORT PASSAGE OF HJR23 TO DISAPPROVE THE ANNEXATION OF LANDS IN OUR AREA TO KODIAK BOROUGH. THANKS.

POMID: 06083632
DATE: 02/23/89
TIME: 08:36:32
LIONAME: DILLINGHAM LIO

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BROWN
SHULTZ
RIEGER
PHILLIPS
BARNES

PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE JACKO

NAME: MARGARET ELKINTON
TITLE:
ADDRESS: 4022 DEBORAH
CITY: JUNEAU ZIP: 99801
PHONE: 789-9370
BILL NO: SB 8
SUBJECT: ALASKA WOMEN'S COMMISSION
MESSAGE: I AM OPPOSED TO THE BILL BUT IF IT IS GOING TO PASS PLEASE VOTE FOR ALL THE AMENDMENTS.

POMID: 00091510
DATE: 02/23/89
TIME: 09:15:10
LIONAME: JUNEAU LIO

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GRUSSENDORF	HANLEY
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MARTIN	MENARD
MILLER	NAVARRE
PETTYJOHN	PHILLIPS
RIEGER	SHARP
SHULTZ	SPOHNHOLZ
SWACKHAMMER	TAYLOR
ULMER	WALLIS
ZAWACKI	

PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE JACKO

NAME: CHERYL COOPER, PRESIDENT
TITLE: DELTA/GREELY EDUCATION ASSOCIATION
ADDRESS: 1954 DAVENPORT RD.
CITY: DELTA JCT. ZIP: 99737
PHONE: 895-4577
BILL NO: HB 16
SUBJECT: APPROP: PASS THRU GRANTS FOR EDUCATION
MESSAGE: WE WOULD LIKE YOU TO SUPPORT AND ADVOCATE FOR FULL FUNDING FOR PUBLIC EDUCATION. THANKS AGAIN FOR YOUR SUPPORT.

POMID: 02162633
DATE: 02/22/89
TIME: 16:26:33
LIONAME: DELTA JUNCTION LIO

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BOYER
GOLL
GRUENBERG
DAVIS, C.
FURNACE

PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE JACKO

NAME: ELIZABETH KALMAKOFF
TITLE:
ADDRESS: GENERAL DELIVERY
CITY: IVANOF BAY, ALASKA ZIP: 99695
PHONE: 669-2204
BILL NO: HJR 23
SUBJECT: DISAPPROVE KODIAK ISLAND BORO ANNEXATION
MESSAGE: I'M FOR HJR 23 BECAUSE I THINK THAT THE PROPOSED LAKE AND PENINSULA BOROUGH SHOULD HAVE THIS LAND THAT WAS TRADITIONALLY USED. THESE ARE NATURAL BOUNDARIES OF THAT PROPOSED BOROUGH RATHER THAN THE KODIAK ISLAND ANNEXATION PROPOSAL. THE RECOMMENDATION OF THE LBC SHOULD BE RECONSIDERED, MANY PEOPLE FEEL IT WAS WRONG. THE MATTER NEEDS TO BE CONSIDERED MORE CAREFULLY BY OUR LEGISLATORS IN LOOKING AT WHAT IS BEST FOR THE ENTIRE DISTRICT.

POMID: 06164435
DATE: 02/22/89
TIME: 16:44:35
LIONAME: DILLINGHAM LIO

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HOFFMAN
LARSON
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RIEGER
PHILLIPS
BARNES

PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE JACKO

NAME: CHERYL COOPER, PRESIDENT
TITLE: DELTA/GREELY EDUCATION ASSOCIATION
ADDRESS: 1954 DAVENPORT RD.
CITY: DELTA JCT. ZIP: 99737
PHONE: 895-4577
BILL NO: HB 21
SUBJECT: SCHOOL DISTRICT LABOR NEGOTIATIONS
MESSAGE: WE URGE YOUR SUPPORT TO PASS OUT OF COMMITTE NOW, HB 21. WE BELIEVE CLASS LOAD AND WORK LOAD ARE BASIC CONDITIONS OF EMPLOYMENT AND SHOULD BE NEGOTIABLE. THANKS FOR YOUR SUPPORT.

POMID: 02162231
DATE: 02/22/89
TIME: 16:22:31
LIONAME: DELTA JUNCTION LIO

COPIES: REPRESENTATIVES

ELLIS
BOYER
GOLL
GRUENBERG
DAVIS, C.
FURNACE

PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE JACKO

NAME: NANA KALMAKOFF, SECRETARY
TITLE: CHIGNIK LAKE VILLAGE COUNCIL
ADDRESS: GENERAL DELIVERY
CITY: CHIGNIK LAKE, ALASKA ZIP: 99548
PHONE: 845-2215
BILL NO: HJR 23
SUBJECT: DISAPPROVE KODIAK ISLAND BORO ANNEXATION
MESSAGE: CHIGNIK LAKE VILLAGE COUNCIL IS IN FAVOR OF HJR23. WE ARE IN FAVOR OF DISAPPROVING THE KODIAK ISLAND ANNEXATION. IT TAKES AWAY A POTENTIAL TAX REVENUE FOR THE BOROUGH THAT IS IN THE PROCESS OF BEING ESTABLISHED. THE LBC CHOSE NOT TO FOLLOW THE RECOMMENDATIONS OF THEIR OWN STAFF. PLEASE SUPPORT HJR 23 THAT WOULD DISAPPROVE THE ANNEXATION PROPOSAL. THANK YOU.

POMID: 06162029
DATE: 02/22/89
TIME: 16:20:29
LIONAME: DILLINGHAM LIO

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ULMER
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PHILLIPS
BARNES

PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE JACKO

NAME: GLENDA PEDERSON
TITLE:
ADDRESS: PO BOX 73635
CITY: FAIRBANKS ZIP: 99707
PHONE: 479-8772
BILL NO:
SUBJECT: FNSB ANNEXATION
MESSAGE: I LIVE AT 75 MILE ELLIOTT HIGHWAY. I AM AGAINST THE FBX NORTH STAR BOROUGH'S ANNEXATION OF PUMP 7. THE ANNEXATION WOULD TAKE AWAY FROM OUR TAX BASE IF WE EVER FORMED A NEW BOROUGH. THERE IS A SCHOOL IN THE AREA IF PUMP 7'S WORKER'S EVER HAD A NEED TO SEND THEIR CHILDREN TO SCHOOL. EOM/MJO

POMID: 07122055
DATE: 02/22/89
TIME: 12:20:55
LIONAME: FAIRBANKS LIO

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DONLEY	ELLIS	FAHRENKAMP
FOSTER	FURNACE	FAIKS
GOLL	GRUENBERG	FISCHER
GRUSSENDORF	HANLEY	FRANK
HOFFMAN	HUDSON	HALFORD
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LEMAN	MACLEAN	KELLY
MARTIN	MENARD	KERTTULA
MILLER	NAVARRE	PEARCE
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RIEGER	SHARP	RODEY
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SWACKHAMMER	TAYLOR	SZYMANSKI
ULMER	WALLIS	UEHLING
ZAWACKI		ZHAROFF

PUBLIC OPINION MESSAGE

FEB 23 1989

DEAR: REPRESENTATIVE JACKO

NAME: CLEM GRUNERT
TITLE: PRES.,CHIGNIK LAGOON VILLAGE COUNCIL
ADDRESS: GENERAL DELIVERY
CITY: CHIGNIK, ALASKA ZIP: 99565
PHONE: 235-6509
BILL NO: HJR 23
SUBJECT: DISAPPROVE KODIAK ISLAND BORO ANNEXATION
MESSAGE: URGE YOUR SUPPORT FOR THE PASSAGE OF HJR 23 DISAPPROVING THE LOCAL BOUNDARY COMMISSION'S RECOMMENDATION FOR ANNEXATION OF TERRITORY TO KODIAK ISLAND BOROUGH BECAUSE WE FEEL THAT TAXES ON THE RESOURCES SHOULD BE LEFT IN THE AREA WHERE THE FISH ARE HARVESTED. PERRYVILLE WAS RELOCATED FROM THE AREA PROPOSED IN THE ANNEXATION, THEY HAVE STRONG TIES TO THIS LAND. THANK YOU FOR YOUR CONSIDERATION, PLEASE PASS HJR 23 AND DISAPPROVE ANNEXATION.

POMID: 06152050
DATE: 02/22/89
TIME: 15:20:50
LIONAME: DILLINGHAM LIO

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BROWN	
SHULTZ	
RIEGER	
PHILLIPS	
BARNES	

PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE JACKO

NAME: BOB KRAMER
TITLE:
ADDRESS: BOX 435
CITY: PILOT POINT, ALASKA ZIP: 99649
PHONE: 796-2213
BILL NO: HJR 23
SUBJECT: DISAPPROVE KODIAK ISLAND BORO ANNEXATION
MESSAGE: I AM IN SUPPORT OF HJR 23 AND URGE YOUR SUPPORT THAT THE KODIAK ISLAND BOROUGH ANNEXATION BE DISAPPROVED. DON'T BELIEVE THAT KODIAK OUGHT TO HAVE THE RIGHT TO ANNEX THE LAND NEAR UGASHIK AND THE WEST SIDE OF THE MOUNTAINS. THIS LAND HAS BEEN TRADITIONALLY USED BY US AND I BELIEVE IT SHOULD NOT BE ALLOWED TO BE ANNEXED INTO THE KODIAK ISLAND BOROUGH. THANK YOU FOR YOUR CAREFUL CONSIDERATION. PLEASE SUPPORT HJR23.

POMID: 06153228
DATE: 02/22/89
TIME: 15:32:28
LIONAME: DILLINGHAM LIO

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SHULTZ	
RIEGER	
PHILLIPS	
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PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE JACKO

NAME: PATRICE LEE
TITLE:
ADDRESS: 676 HILLCREST
CITY: FAIRBANKS ZIP: 99712
PHONE: 457-8797
BILL NO: HB 16
SUBJECT: APPROP: PASS THRU GRANTS FOR EDUCATION
MESSAGE: WE URGE YOUR SUPPORT FOR FULL FUNDING OF EDUCATION.
SIGNED PATRICE LEE FOR CONCERNED TEACHERS AT RYAN MIDDLE SCHOOL.
EOM/MJO

POMID: 07154543
DATE: 02/22/89
TIME: 15:45:43
LIONAME: FAIRBANKS LIO

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FURNACE	

PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE JACKO

NAME: MYRA OLSEN
TITLE:
ADDRESS: BOX 74
CITY: EGEGIK, ALASKA ZIP: 99579
PHONE: 233-2235
BILL NO: HJR 23
SUBJECT: DISAPPROVE KODIAK ISLAND BORO ANNEXATION
MESSAGE: I SUPPORT HJR23. KODIAK IS SEPARATED FROM THE PENINSULA BY FEDERAL WATERS. EGEGIK HAS PHYSICAL AND EMOTIONAL TIES TO THE LAND AND OUR DEVELOPMENT SHOULD NOT BE FURTHER ENCROACHED BY OUTSIDE ENTITIES FOR THEIR GAIN. I REQUEST YOU VOTE DO PASS ON HJR23. THANK YOU.

POMID: 06094333
DATE: 02/23/89
TIME: 09:43:33
LIONAME: DILLINGHAM LIO

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LARSON	ZHAROFF
HOFFMAN	
SWACKHAMMER	
WALLIS	
KOPONEN	
ULMER	
BROWN	
SHULTZ	
RIEGER	
PHILLIPS	
BARNES	

PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE JACKO

NAME: JOY ABALAMA
TITLE:
ADDRESS: BOX 129
CITY: EGEGIK, ALASKA ZIP: 99579
PHONE: 233-2235
BILL NO: HJR 23
SUBJECT: DISAPPROVE KODIAK ISLAND BORO ANNEXATION
MESSAGE: I SUPPORT HJR23. WHY? THE ANNEXATION TAKES VALUABLE RESOURCES AWAY FROM THE PROPOSED LAKE AND PENINSULA BOROUGH. THIS AREA INCLUDING KANATUK HAS ALWAYS BEEN VIEWED BY THE PEOPLE OF EGEGIK AS AN ESSENTIAL PART OF OUR HERITAGE. WE SUPPORT FORMING OUR OWN BOROUGH. W WANT IT TO BE FINANCIAL STABLE. URGE YOUR SUPPORT FOR HJR23. THANK YOU.

POMID: 06100245
DATE: 02/23/89
TIME: 10:02:45
LIONAME: DILLINGHAM LIO

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DAVIS, M.	
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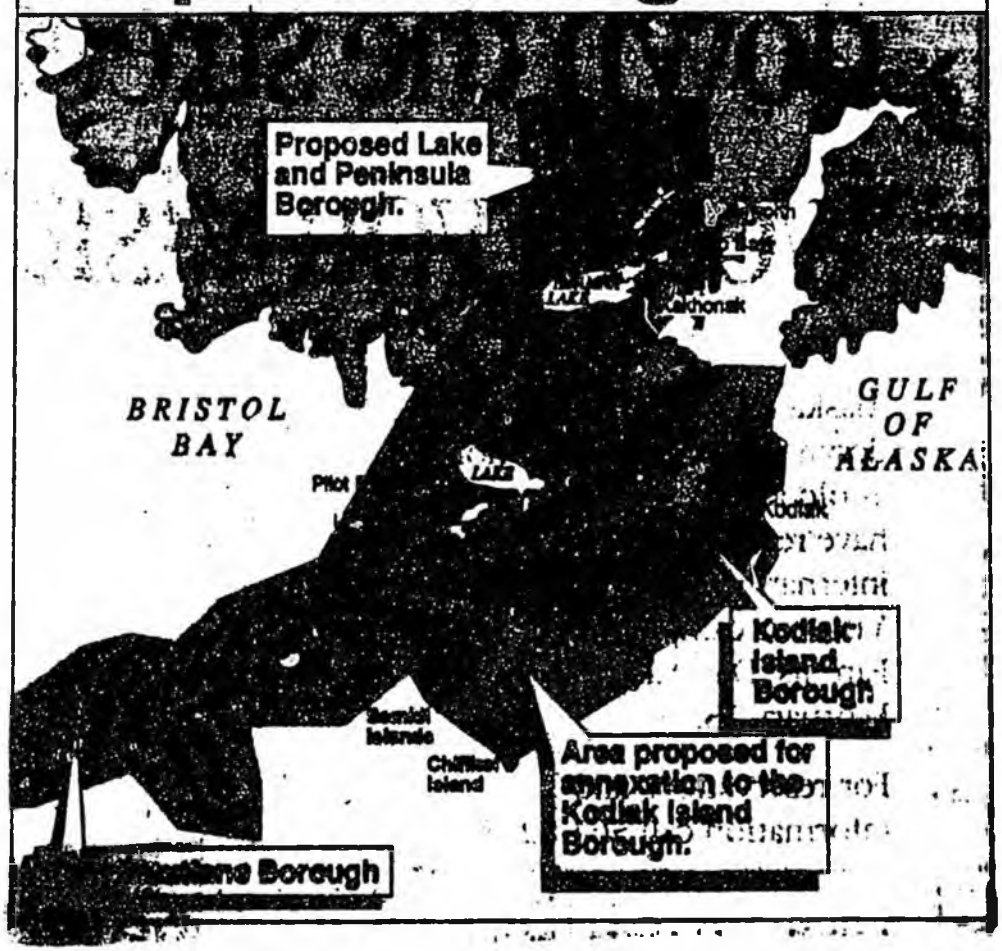
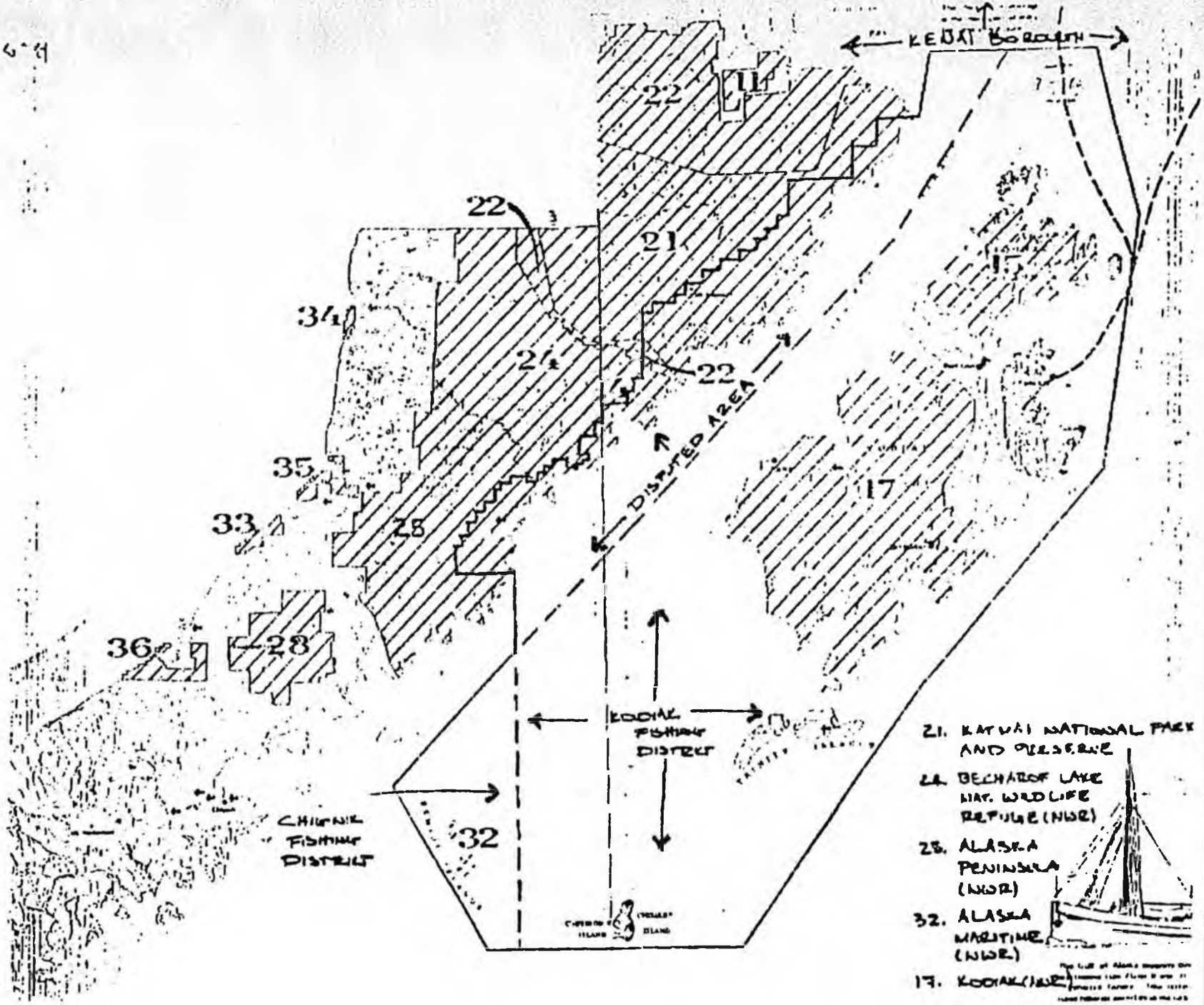
ULMER	
BROWN	
SHULTZ	
RIEGER	
PHILLIPS	
BARNES	

#8

Proposed Borough Plans




KENAI BOROUGH
22
11
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34
24
22
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33
28
DISPUTED AREA
17
36
28
KODIAK FISHING DISTRICT
CHIGNIK FISHING DISTRICT
32
21. KATMAI NATIONAL PARK AND PRESERVE
28. BECHAROF LAKE NAT. WILDLIFE REFUGE (NWR)
28. ALASKA PENINSULA (NWR)
32. ALASKA MARITIME (NWR)
17. KODIAK (NWR)