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Mary Van Nimwegen

2/4/92 House C&RA

ANNEXATION TIMELINE

- 1988 Hoonah requests the LBC to conduct a feasibility study for a Chatham Borough
- May 25, 1989 CBJ Assembly passes a resolution authorizing submission of annexation petition
- June 1, 1989 DCRA receives petition
- June, 1989 LBC decides to suspend all annexation petitions pending completion of the Model Borough Boundary study.
- July 7, 1989 DCRA notifies CBJ that petition is in compliance with laws and regulations
- Aug 4, 11, 18 Notice published
- April 9, 1990 First draft of CBJ report released by DCRA
- May 7, 1990 DCRA met with CBJ Assembly
- May 17, 1990 Deadline for comments on draft
- June 22, 1990 DCRA releases final report and recommendation (recommends expansion from 140 sq. miles requested to 3,000 sq. miles to include Hobart Bay, Glass Peninsula and other areas of Admiralty Island)
- July 13, 1990 CBJ withdraws application for annexation
- July 13, 1990 LBC holds public hearing
- July 14, 1990 LBC approves application; asks CBJ to rescind action of withdrawing petition
- Aug 20, 1990 CBJ Assembly reinstates petition conditioned on deferred effective date of January 1, 1994
- Sept 6, 1990 LBC rejects deferred annexation request
- Sept 17, 1990 Greens Creek attorney requests reconsideration; CBJ Assembly adopts resolution agreeing to immediate annexation if LBC rejects Greens Creek reconsideration request
- Sept 22, 1990 LBC approves CBJ resolution, recommends petition approval of immediate annexation
- Oct 29, 1990 Greens Creek files for reconsideration again

Nov 8, 1990 CBJ files response to reconsideration stating
it is appropriate and 1994 effective date
should be considered

Nov 10, 1990 LBC votes to reconsider denial of deferred
effective date

Dec 13, 1990 Notice of proposal to defer annexation
is published

March 15, 1991 DCRA issued draft report and recommendation on
deferred effective date

June 4, 1991 DCRA issues final report and recommendation

June 29, 1991 LBC holds public hearing on the deferred
effective date

 LBC approves deferred effective date
application withdrawal

**REVIEW OF THE PROPOSAL TO DEFER THE EFFECTIVE DATE
OF THE ANNEXATION OF THE GREENS CREEK MINE TO THE
CITY AND BOROUGH OF JUNEAU**

**ANALYSIS AND RECOMMENDATION
TO THE LOCAL BOUNDARY COMMISSION**



**WALTER J. HICKEL
GOVERNOR**

**EDGAR BLATCHFORD
COMMISSIONER**



JUNE 4, 1991

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EXECUTIVE SUMMARY

In June of 1980, the City and Borough of Juneau (CBJ) filed a petition to annex the Greens Creek Mine and surrounding territory. In August of 1990, the petition was amended to propose a deferral of the annexation until January 1, 1994.

The requested deferral was intended to provide the mine with temporary relief from CBJ sales taxes and property taxes. Deferring municipal land use regulation offered the prospect of additional savings for the mine. CBJ officials supported the deferral in order to 'secure the long-term future of the mine'.

In October of 1990, the Local Boundary Commission (LBC) approved the annexation, but denied the request to defer its effective date. The following month, the LBC agreed to reconsider the deferral of the effective date.

The Department of Community and Regional Affairs (DCRA), acting as staff to the LBC, has examined the proposed deferral. Based upon this analysis, DCRA concludes that there is a legitimate need for the immediate annexation of the territory in question. This conclusion is based upon the following points:

- The LBC has formally concluded that the Greens Creek Mine is presently in need of municipal services.
- Standards for borough annexation contemplate the immediate extension of services to newly annexed areas.
- The taxes and regulatory burden placed upon the Greens Creek Mine are not unreasonable when viewed in the context of the size of the mine, its impact upon Juneau and the taxing and regulatory practices of the CBJ.
- If the annexation is deferred to provide financial relief to the Greens Creek Mine, others are likely to seek similar treatment. Such actions are counter to the Constitutional provisions requiring boroughs to "embrace an area and population with common interests to the maximum degree possible".
- The deferral would have adverse financial impacts on the State.
- The deferral is contrary to the State's goal of diminishing reliance on the State to support local services.

DCRA notes that delays in the annexation proceedings have already resulted in substantial tax savings to the mine. The annexation might have been effected as early as March, 1990; the earliest it can now be implemented is March, 1992. Those delays have resulted in projected tax savings to the mine amounting to \$972,000.

DCRA does not dispute the critical public benefit associated with ensuring the viability of the mine. However, to the extent that deferral of taxes may be necessary to accomplish that end, DCRA stresses that the CBJ enjoys independent authority to grant full relief from municipal sales and property taxes to the mine following annexation.

Therefore, DCRA recommends that the LBC deny the proposed deferral of the annexation.

SECTION I - BACKGROUND

A. Petition for Annexation.

On May 25, 1989, the Assembly of the City and Borough of Juneau (CBJ) adopted a resolution authorizing a petition for the annexation of approximately 140 square miles. The area included the Greens Creek Mine on Admiralty Island.

The CBJ's annexation petition was filed on June 1, 1989. Six days later, the Local Boundary Commission (LBC) announced that it would postpone consideration of all pending proposals for borough annexation and incorporation. This action was taken to allow the LBC the opportunity to develop a boundary guideline map which identifies 'model' boundaries for existing and future boroughs throughout Alaska.

Following a review of the petition, the Department of Community and Regional Affairs (DCRA) notified CBJ officials on July 7, 1989 that the form and content of the petition were in substantial compliance with applicable laws. Public notice of the filing of the petition was subsequently provided.

On April 12, 1990 DCRA (in its role as staff to the LBC) issued its draft report and recommendation concerning the proposed annexation and ideal boundaries of the CBJ. Public comments on the report were accepted over a period of more than five weeks.

On June 22, 1990, DCRA released its final report and recommendation on the proposed annexation and model boundaries for the CBJ. DCRA recommended in its final report that the annexation be approved on the condition that the area to be annexed be expanded to encompass all of the territory within the CBJ's ideal boundaries. The ideal boundaries identified by DCRA extended to Hobart Bay on the mainland and included the Glass Peninsula and other areas on Admiralty Island. DCRA recommended that the annexation be expanded from 140 square miles to more than 3,000 square miles.

The LBC scheduled a hearing on the annexation petition and CBJ model boundaries for July 13, 1990 in Juneau. Arrangements were made to allow residents of the communities of Angoon, Hoonah, Kake and Petersburg to participate in the hearing via teleconference. Notice of the hearing was provided as required by law.

B. Withdrawal of Petition.

Approximately 6 hours prior to the scheduled start of the LBC's hearing, the Assembly of the CBJ adopted a motion to withdraw its annexation petition. Notwithstanding that action, the LBC proceeded with the hearing. The LBC did so on the basis that: 1) extensive notice of the hearing had already been given; 2) it was likely that residents in Juneau and surrounding

communities wished to testify before the LBC on the boundary issues; 3) the CBJ Assembly may have acted hastily in its attempt to withdraw the petition due to a concern that the recommendation of DCRA for the expansion of the territory proposed for annexation would be given "rubber stamp" approval by the LBC; and 4) there is no mechanism set out in statute or regulation by which a petitioner may withdraw a petition submitted to the LBC.

C. LBC Approval of Petition.

On July 14, 1990, the LBC adopted a motion to approve the annexation of the 140 square mile area requested in the CBJ petition. Approval was granted on the condition that the CBJ Assembly rescind its withdrawal of the petition.

On August 20, 1990, the CBJ Assembly adopted a resolution reinstating the annexation petition. However, the action was subject to the condition that the LBC defer the effective date of the annexation to January 1, 1994.

On September 6, 1990, the LBC rejected the request to defer the annexation. The LBC set September 22, 1990 as a deadline for concurrence by the CBJ Assembly for the Commission to proceed without delay on the annexation.

On September 17, James F. Clark, Attorney for the Kennecott Greens Creek Mining Company (KGCMC), notified the LBC that reconsideration of the LBC's decision would be requested. Later that same day, the CBJ Assembly adopted Resolution No. 1469 agreeing to annexation without delay on the condition that the LBC deny the anticipated request for reconsideration by KGCMC.

On September 22, 1990, the LBC adopted a motion stating that the action taken by the CBJ Assembly through Resolution No. 1469 satisfied the terms stipulated by the LBC on September 6. Thus, the petition was considered approved and annexation was to proceed without delay.

The LBC adopted a written statement of decision concerning the annexation on October 8, 1990. A copy of that statement was provided to CBJ officials, KGCMC officials and other interested parties.

D. Reconsideration.

On October 29, 1990, KGCMC filed a timely request for reconsideration of the LBC's decision. The request for reconsideration raised the following allegations:

1. Once the petition had been "withdrawn" by the CBJ, the LBC had no authority to approve it.

2. After the CBJ "reinstated" its petition, the matter should have been treated as a new petition, beginning with new notice of the filing of the petition.
3. The LBC did not seriously consider the CBJ's request to defer the effective date of the annexation.
4. The LBC's decision on the proposed deferral was made without substantive discussion, the conclusions presented in its statement of decision were not supported by the record.
5. The LBC was arbitrary in that it approved the petition based upon the action of the CBJ Assembly on September 17, 1990 (which did not provide for an immediate effective date, given the pending reconsideration) but denied the proposed deferral without debate.
6. The LBC's decision to approve the CBJ petition is arbitrary in light of its denial of a similar annexation petition from the Fairbanks North Star Borough.

On November 8, 1990, the CBJ filed a response to the request for reconsideration. The response stated that "the city and borough believes that reconsideration of the reinstated amended petition with the 1994 effective date proposal as set forth in CBJ Resolution No 1462 (Substitute) is appropriate." The following three reasons were cited as the basis for the CBJ's position.

1. The CBJ Assembly action of September 17, 1990 was not intended to preclude reconsideration.
2. Neither the statutes nor LBC regulations provide procedures for withdrawal or amendment of petitions.
3. Reconsideration would result in a full hearing on the CBJ's reinstated amended petition.

On November 10, the LBC voted to reconsider its earlier denial of the proposed deferral of the annexation. The LBC limited reconsideration to the effective date of the annexation. That is, approval of the annexation itself would not be reconsidered.

On December 13, 1990, the CBJ filed a brief urging the LBC to approve the proposal to defer the annexation. Copies of the brief were served by the CBJ on 62 interested parties. Copies were also provided to the LBC.

Notice of the proposal to defer the annexation was served on 62 parties by the CBJ on December 13. As the notice contained a typographical error in the deadline for comments (February 1 instead of February 11) a corrected notice was served on the same 62 parties on December 17, 1990. The notice was also published in the Juneau Empire on December 21, 28 and January 4, 1991.

On February 8, 1991, KGCMC filed an answering brief in support of the deferral. The Mayor of the City of Kake was the only party to offer written comments on the matter by the February 11, 1991 deadline.

On March 15, 1991, DCRA issued its draft report and recommendation concerning the pending reconsideration of the proposed deferral. Individuals were given until April 15, 1991 to comment on the draft. Comments were submitted by the CBJ and KGCMC (copy of each included in Appendix).

The LBC is scheduled to meet in Juneau to address reconsideration on June 29 in the CBJ Assembly Chambers. The meeting will convene at 11:00 a.m. with a hearing on an unrelated matter (proposed changes to LBC regulations). The LBC will take up the reconsideration following the hearing on the proposed modification of its regulations, but not before 1:00 p.m.

The following is the analysis of the proposed deferral, including consideration of the briefs of the CBJ and KGCMC, as well as the written comments of the City of Kake and the comments from the CBJ and KGCMC on DCRA's March 15, 1991 draft report.

SECTION II - ANALYSIS

A. CBJ ARGUMENTS

As noted earlier, the CBJ filed a brief supporting the proposed deferral on December 13, 1990. The brief makes three principal points to support its contention that "approval of the January 1, 1994 deferred effective date would be in the best interests of the CBJ, the territory to be annexed and the State of Alaska". Each of the points raised in the CBJ brief are identified and examined below.

1. Authority to Defer Effective Date

The CBJ notes correctly that the Office of the Attorney General has previously advised the LBC that it may delay the effective date of a boundary change. The CBJ goes on to draw an analogy between the proposed deferral of the Greens Creek Mine annexation and a two year deferral granted by the LBC for an annexation to the City of Haines.

In 1983, the LBC approved a proposal initiated by the City of Haines to expand its boundaries by approximately 3.5 square miles. The area in question had a relatively substantial resident population. Most of the adult population in the area opposed the annexation.

At the same time, officials of the City of Haines and the Haines Borough began exploring the option of unifying the two governments. The LBC viewed unification (a matter which is not

subject to consideration by the LBC) as preferable to annexation for the following reasons:

- ° A unified government is inherently more efficient.
- ° A home rule government would permit greater flexibility and local control over service delivery boundaries (i.e. service areas established by local control under the charter vs. city boundaries established through State control).
- ° Unification would eliminate the only 3rd class borough in the state. At that time, 3rd class boroughs were viewed by the State as an "outmoded" form of government, given their limited areawide powers. In fact, in 1985, the legislature adopted a law prohibiting the formation of additional 3rd class boroughs.

The LBC stipulated in its recommendation to the 1984 legislature that if the City of Haines and the Haines Borough were not unified by March, 1986, the annexation would then be implemented. The LBC believed that the leverage offered by the prospect of annexation would promote serious consideration of the unification proposal. As it turned out, the legislature rejected the LBC's recommendation concerning the Haines annexation in 1984, and a vote on unification was never held.

At the time, the action of the LBC was characterized by Assistant Attorney General James Baldwin as:

. . . a reasoned choice between the competing objectives of encouraging cooperation between the city and borough, and those of settling boundary questions promptly to facilitate planning and assure responsiveness to current conditions.

CBJ officials suggest that the issue presently before the LBC is analogous. That is, they claim that the proposed deferral presents "a reasoned choice between competing objectives" of the desire to ensure long-term stability of the mine and the need, eventually, to tax the mine.

However, the deferral in the Haines case clearly promoted a number of valid and important public purposes directly related to the constitutional goal of strengthening and extending local government. DCRA does not consider the Greens Creek Mine circumstances to be analogous, as is discussed in the following section.

2. CBJ Argues Deferral Serves Public Purposes.

The CBJ claims that the proposed deferral provides the "CBJ, Greens Creek and the state with certainty and predictability with regard to the future of the mine as a part of the CBJ without putting at risk the vital long-term role that the mine will play in the CBJ's economy."

The State strongly endorses the goal of promoting predictability with respect to borough boundaries. To this end, the LBC and DCRA began the "model borough boundaries" project in 1989, as noted earlier. That effort is designed specifically to promote predictability of boundaries for all existing and potential boroughs.

Further, the State strongly supports steps which promote healthy and diversified local economies. However, in order to reasonably demonstrate that the deferral would serve a valid public purpose, it would be necessary to show that the levy of local sales and property taxes on the mine and the imposition of land use regulation prior to January 1, 1994 will jeopardize the financial viability of the mine.

Media accounts offer conflicting views on the profitability of the mine. An article appearing in several newspapers, including the Anchorage Times on February 25, 1991, (see Appendix) indicates that although the price of silver is in a slump, the Greens Creek operation appears to be profitable. However, a month later, the Juneau Empire reported on April 5, 1991 that low silver prices have forced cutbacks at the mine (see Appendix).

KGCMC's response to DCRA's March 15, 1991, draft report offers additional comments concerning the profitability of the mine. These include an affidavit from Cliff Davis, Manager of the mine, indicating that the mine "is not currently profitable and will not be profitable under current circumstances . . . it is unlikely that the mine will be profitable in 1991 or 1992."

CBJ officials have indicated that sales taxes would be levied upon sales to the mine immediately following annexation. However, the CBJ would not begin to levy property taxes on the mine until January 1 of the year following annexation. The earliest that annexation can occur at this point is mid-March of 1992.

The CBJ has estimated that the mine would pay \$150,000 annually in sales taxes (\$12,500 monthly) and \$336,000 annually in property taxes. Thus, deferral of the annexation until January of 1994 would save the mine an estimated \$268,750 in sales taxes (21.5 X \$12,500) and \$336,000 in property taxes, for a total of \$604,750.

Additionally, KGCMC officials are contemplating expanding the mine's operations in order to improve operating efficiencies. This expansion would reportedly have to comply with land use regulations of the CBJ. KGCMC officials suggest that these permit requirements could be onerous, noting that "several hundred thousand dollars" have been spent by the Echo Bay mining operation to process its permit application under "the CBJ large mine development permit requirement" (letter from Jim Clark 5/22/91).

The projected savings in taxes and costs associated with compliance of local land use regulations clearly constitute a significant sum of money. However, that savings must be considered in the context of the scope of the mine, its impacts upon the community, and the burden that other property owners bear with respect to municipal land use regulations and taxes.

DCRA agrees that there is public interest in ensuring the long-term viability of the mine. However, it has never been clearly demonstrated that tax relief is necessary to accomplish this end.¹

If tax relief is not necessary to ensure the continued operation of the mine, granting the deferral or other tax relief is counter to the public interest. Any tax relief for the mine results in higher taxes for others in Juneau. The projected \$604,750 in tax relief from March 1992 to January 1994 is the equivalent of more than a one-half mill property tax levy (based upon 1990 assessed values). On a \$100,000 home, that would amount to \$50.36 in additional taxes.

To the extent that tax relief may be necessary to ensure the continued viability of the mine, DCRA stresses that the CBJ has totally independent authority to defer the projected \$604,750 in municipal taxes which would be levied on the mine prior to January of 1994.

3. CBJ Believes Deferral is Best Option

The CBJ brief indicates that local officials examined two alternative methods of providing tax relief to the Greens Creek Mine. These were: (1) adopting the optional property tax exemption authorized for "economic development property" under AS 29.45.050(m) as well as exemptions from sales taxes; and (2) reducing the areawide property tax rate.

The first alternative was rejected by local officials because it was considered not to be in the best interests of the CBJ. This was based upon the following conclusions by CBJ officials:

- ° It would be difficult to structure sales and property tax exemptions to apply only to the annexed territory and not property already within the CBJ boundaries.
- ° If the exemptions were applied to similar developments already within the CBJ boundaries, it would lose potentially significant tax revenues.

¹ KGCMC officials have invited DCRA and the CBJ to "review the joint venture's economics on a confidential basis" in order to determine the need for the deferral. While the invitation is appreciated, DCRA lacks the resources to properly determine whether the deferral is clearly necessary to ensure the long-term viability of the mine.

- ° It may be politically difficult to repeal the exemptions once enacted.
- ° If the property tax exemption were granted, the value of the mine would still be included in calculations under the education foundation formula which would reduce State aid to the CBJ.

The second option was dismissed by CBJ officials because the CBJ areawide property tax mill rate is currently at 5.42 mills. Since State law requires the equivalent of a 4 mill property tax contribution in support of schools, the CBJ brief notes that "an areawide mill rate of less than four mills would mean a net loss to the CBJ".

DCRA acknowledges that if tax relief is granted to the mine, deferral of the annexation is the most desirable approach from the standpoint of CBJ officials. If the CBJ granted exemptions from sales and property taxes to the Greens Creek Mine, other developers might be expected to seek equal treatment.

Tax relief to certain other prospective developments would indeed be costly to the CBJ. For example, the CBJ is projected to levy a property tax of 11.41 mills on the proposed AJ Mine development (compared to 5.42 mills on the Greens Creek Mine). At their peak, property tax revenues from the AJ mine are projected to be in excess of \$2.8 million annually (compared to \$336,000 for the Greens Creek Mine). Anticipated sales taxes from the AJ Mine are projected to be as high as \$247,970 annually (compared to \$150,000 for the Greens Creek Mine). (Source: Socioeconomic Impact Assessment: Alaska-Juneau Mine - draft, January, 1991).

In addition, since much of the AJ Mine is located on property owned by the CBJ, projections call for leasehold payments to the CBJ amounting to \$100,000 annually and royalty payments in excess of \$37 million over a 13 year period.

Further, by deferring the annexation, the State of Alaska bears an estimated additional \$248,000 in payments to the CBJ under the education foundation formula. That figure isn't particularly significant in the context of the State's total budget. However, it should be recognized that the State will pay an estimated \$28,921,900 to the CBJ under major financial aid programs (education funding, State Revenue Sharing and Municipal Assistance) in the current fiscal year. This amounts to the equivalent of 24.09 mills in property taxes (source: Craig Duncan, CBJ Treasurer -- 3/14/91).

Given its declining revenues, the State must encourage local governments to assume greater responsibilities for the provision of local services, wherever sufficient financial resources exist.

DCRA considers the deferral of the annexation as conflicting with the goal of encouraging greater local support in the

provision of services. Further, deferral will have adverse financial impacts upon the State of Alaska. Perhaps most importantly, DCRA is concerned that deferring the annexation will set a poor precedent.

In DCRA's view, deferring the annexation to grant relief from municipal taxes and regulation runs the risk of promoting similar proposals elsewhere. In addition to annexations, these may include proposals for deferred incorporations or even for "temporary detachments".

Compliance with the Constitutional requirement to 'divide the entire state into boroughs which embrace an area and population with common interests to the maximum degree possible' (Article X, Section 3) has gone unfulfilled for 33 years. In large measure, it has gone unfulfilled because residents and other property owners seek to avoid local government taxation and regulation. This is evident from the fact that approximately 95% of borough residents in Alaska live in boroughs which were formed only under a mandate from the State legislature.

Given these considerations, DCRA does not feel that deferral is the appropriate method for granting tax relief to the mine.

B. KGCMC'S ARGUMENTS

The KGCMC submitted an answering brief on February 8, 1991, supporting the proposed deferral of the annexation. The major points raised in the brief were:

1. The LBC has authority to grant the deferral.
2. It is good public policy to meet the needs of a local community in an annexation as expressed by the affected local government.
3. The LBC's decision should reflect the community's judgment.
4. The mine meets the standards for annexation to the CBJ and should not be included within another existing or prospective borough, therefore, the deferral is not inappropriately "locking up" parts of the the unorganized borough.

The first issue has been dealt with under the discussion of the CBJ brief. Again, DCRA does not dispute the authority of the LBC to grant the deferral.

With respect to points 2 and 3, DCRA carefully considers public policy implications and the sentiments of local officials in developing its recommendations to the LBC. However, the LBC has a duty to consider the interests of the state as a whole, not just the sentiments of locally elected officials.

The LBC was created under Alaska's Constitution for the very

purpose of removing municipal boundary determinations from parochial political influence. This position is clearly reflected in the 1962 Alaska Supreme Court case, Fairview Public Utility District Number One v. City of Anchorage, 368 P.2d 540. The Court noted:

An examination of the relevant minutes of [the 31 meetings held by the Committee on Local Government at the Constitutional Convention] shows clearly the concept that was in mind when the local boundary commission section [of the Constitution] was being considered: that local political decisions do not usually create proper boundaries and that boundaries should be established at the state level. The advantage of the method proposed, in the words of the committee -- "lies in placing the process at a level where areawide or statewide needs can be taken into account. By placing authority in this third-party, arguments for and against boundary change can be analyzed objectively".

Thus, while it is important for the LBC to consider the wishes of local officials, the Constitution requires consideration of broader viewpoints as well.

With respect to KGCMC's fourth issue, DCRA agrees that the LBC has already concluded that the mine is most appropriately included within the corporate boundaries of the CBJ. While municipal boundaries are always subject to change in order to accommodate evolving economic, social and political developments, DCRA is unaware of current circumstances that would suggest the mine should be included within another borough. However, at least one legislator and a number of local officials in the Chatham Region do not agree with the LBC's approval of the annexation.

As noted earlier, only one letter was received during the public comments period concerning this matter. On December 19, 1990, Lonnie Anderson, Mayor of the City of Kake wrote:

. . . [the City of Kake] also agrees with the request to delay annexation to January 1, 1994. This delay will give many concerned villages and small cities the chance to review their status and get their act together.

Mayor Anderson's comments seem to reflect the hope that the annexation will be denied by the legislature and that Chatham Region communities will be in a position to organize a borough encompassing the Greens Creek Mine.

Since the proposed annexation remains subject to legislative review under the terms of Article X, Section 12 of the State Constitution, one cannot conclude that the mine will necessarily end up within the boundaries of the CBJ.

C. REASONS FOR IMMEDIATE ANNEXATION

DCRA believes that immediate annexation of the territory is warranted for the following reasons.

1. Territory Currently Needs CBJ Services

The LBC concluded in its written statement of decision concerning the CBJ annexation adopted October 8, 1990, that:

The area is in need of municipal services which the CBJ can provide more efficiently than another municipality or the State. Thus, the standard set out in 19 AAC 10.190(a)(3) is satisfied. This conclusion is based upon the following findings.

While the area has no permanent residents, it is a major industrial site in close proximity to Juneau. More than 200 individuals reportedly work at the Greens Creek Mine. All of these individuals are believed to reside within the boundaries of the CBJ.

The CBJ would provide the following direct services to the area upon annexation:

- emergency police services (offered in a limited capacity and only in emergencies);
- search and rescue;
- emergency medical services;
- planning, zoning and coastal management;
- tax assessment and collection; and
- building inspection.

In addition, services delivered by the CBJ in other locations, but available to the workers in the annexed area include:

- Juneau public school system;
- Juneau International airport;
- Juneau hospital;
- Juneau harbor facilities;
- social services;
- cemeteries;
- libraries;
- convention facilities; and
- museums.

Thus, the LBC has concluded that there are presently unfulfilled needs for municipal services in the area proposed for annexation. KGCMC officials dispute this finding of the LBC. In their comments of April 15, 1991 (see appendix), Mr. Clark states:

There is not a single service that the CBJ can offer that Greens Creek "needs". The mine is completely self-sufficient and has its own emergency response

team for medical problems. With respect to support services for mine employees, the mine employees pay for those services through their own taxes.

The Department's argument goes on to state that KGCMC has a need for planning and zoning and coastal management, tax assessment and collection, and building inspection. These are the very problems associated with annexation that both the CBJ and KGCMC are seeking to avoid by deferral and thus, the statement is ludicrous on its face.

Mr. Clark seems to suggest that the mine should be viewed in an isolated fashion -- totally separate from the community of Juneau. In DCRA's view, KGCMC "needs" the services of the CBJ because it requires an educated, healthy, protected workforce -- one which travels to and from work on roads maintained by the CBJ and uses other facilities and services of the CBJ.

While the Greens Creek Mine may have its own emergency response team, any injured worker requiring serious medical attention is likely to receive such at the Juneau hospital. Regardless of the extent to which the mine endeavors to be self-supporting, any calamity of the mine site would likely require direct services from the CBJ (police, EMS, search and rescue).

Arguments that residential property and sales taxes pay an appropriate share of the costs of providing services to local residents are unpersuasive. The 1990 taxable value of residential real property within the boundaries of the CBJ amounted to only 50.7% of the total taxable property in the CBJ (\$609,218,700 of \$1,200,903,075 - source: State Assessor).

Thus, the territory proposed for annexation is in need of services and it is appropriate that all taxable properties within the CBJ contribute to the financial support of the local government.

2. Law Contemplates Immediate Annexation

The LBC's standards for annexation to boroughs (19 AAC 10.200) require that:

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 non-areawide borough services shall be extended to the annexed area immediately. . .

The LBC formally concluded in its October 8, 1990 statement of decision that "the CBJ is capable of extending and willing to extend areawide services to the 140 square mile area proposed for annexation in accordance with 19 AAC 10.200." DCRA is

unaware of any circumstance which suggests that it is not possible to extend immediate services to the Greens Creek Mine upon annexation. As such, the LBC's regulations contemplate that annexation occur immediately.

D. CONCERNS OVER DUE PROCESS

Mr. Clark indicates in his comments of April 15, 1991 that "KGCMC has previously asserted and continues to assert that the LBC did not have authority to approve the application for annexation after it was withdrawn by the CBJ Assembly on July 13, 1989".

DCRA and the LBC have taken every conceivable measure to ensure the rights of KGCMC in this matter. The reconsideration process has followed all of the steps which would be required of a new petition.

Mr. Clark's comments of April 15 conflict with testimony provided to the Commission in November (see appendix). The November testimony states on page 5:

Greens Creek urges the commission to grant its request for reconsideration because the proper measure of due process has not occurred to date. In order to rectify the situation, the CBJ petition with the 1994 deferred effective date should be noticed and the LBC procedures begun anew. This would give all interested parties the opportunity to submit testimony on the issue and allow the commission to make an informed decision. (emphasis added)

The concerns expressed by Mr. Clark last November were fully addressed in the procedures used in the reconsideration DCRA believes that these procedures are in substantial compliance with all applicable requirements.

SECTION III - CONCLUSIONS AND RECOMMENDATION

The CBJ initiated its petition for annexation in May of 1989. That annexation, which might have been implemented as early as March of 1990, was delayed by one year as a result of the model boundaries project. The annexation was delayed an additional year as a result of the current reconsideration proceedings. The earliest that the annexation could now be implemented is March of 1992. The Greens Creek Mine has already gained nearly one million dollars in tax relief.

The Department does not believe that further delay in the annexation of the Greens Creek Mine is warranted. This position is based upon the following:

- ° The LBC has formally concluded that the Greens Creek Mine is presently in need of municipal services.

- ° Standards for borough annexation contemplate the immediate extension of services to newly annexed areas.
- ° The taxes and regulatory burden placed upon the Greens Creek Mine are not unreasonable when viewed in the context of the size of the mine, its impact upon Juneau and the taxing and regulatory practices of the CBJ.
- ° If the annexation is deferred to provide financial relief to the Greens Creek Mine, others in Alaska are likely to seek similar treatment. Manipulating regional government boundaries in such a fashion is counter to the Constitutional provisions requiring boroughs to "embrace an area and population with common interests to the maximum degree possible".
- ° The deferral would have adverse financial impacts on the State.
- ° The deferral is contrary to the State's goal of diminishing reliance on the State to support local services.

DCRA notes that delays in the annexation proceedings have already resulted in substantial tax savings to the mine. The annexation might have been effected as early as March, 1990; the earliest it can now be implemented is March, 1992. Those delays have resulted in projected tax savings to the mine amounting to \$972,000.

DCRA does not dispute the critical public benefit associated with ensuring the viability of the mine. However, to the extent that deferral of taxes may be necessary to accomplish that end, DCRA stresses that the CBJ enjoys independent authority to grant full relief from municipal sales and property taxes to the mine following annexation.

Therefore, DCRA recommends that the LBC deny the proposed deferral of the annexation.

APPENDIX A-F

1 the boundary question with respect to the Greens Creek Mine
2 (thereby providing the municipality, the mining company, and the
3 300 CBJ residents who work at the mine with stability and
4 predictability) without jeopardizing the mine's long-term presence
5 as an important part of Juneau's economy.

6 The deferred effective date proposal is consistent with the
7 reasons why the CBJ filed this annexation petition to begin with.
8 As expressed in the June 1, 1989, letter from City-Borough Manager
9 Kevin C. Ritchie accompanying the annexation petition, the CBJ did
10 not submit the petition for a "quick revenue fix." The CBJ's goals
11 were broader: protecting the jobs of a large segment of Juneau's
12 residents and protecting the Mansfield Peninsula, as well as
13 generating more tax revenue to pay for municipal services used by
14 Greens Creek and its employees. The CBJ believes that its reasons
15 for submitting the petition were in the public interest and that
16 the January 1, 1994, effective date proposal furthers those goals
17 without compromising or "manipulating" the annexation process.

18 The CBJ also takes exception to DCRA's comment that if the
19 deferral is approved, the CBJ may next seek a "temporary
20 detachment" of the AJ Mine to allow it to be relieved from
21 taxation. DCRA Draft Recommendation, p. 11. This is clearly a
22 far-fetched hypothetical and, if approved, the deferred effective
23 date for the Greens Creek annexation would not establish any sort
24 of precedent for such an action.

25 DCRA takes the position that the deferral is not in the

RECEIVED

APR -5 1991

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

STATE OF ALASKA
LOCAL BOUNDARY COMMISSION

3 IN THE MATTER OF THE ANNEXATION)
4 OF THE GREENS CREEK MINE AND)
5 SURROUNDING TERRITORY TO THE)
6 CITY AND BOROUGH OF JUNEAU)

7 CITY AND BOROUGH OF JUNEAU'S COMMENTS ON THE
8 DRAFT RECOMMENDATION ON THE PROPOSAL TO DEFER THE
9 EFFECTIVE DATE FOR THE ANNEXATION OF THE GREENS CREEK MINE

10 I. Introduction

11 The Department of Community and Regional Affairs (DCRA),
12 acting as staff for the Local Boundary Commission (LBC), has
13 recommended that the LBC deny the City and Borough of Juneau's
14 (CBJ) proposal to defer the effective date of the Greens Creek Mine
15 annexation until January 1, 1994. The CBJ continues to request
16 that the LBC approve the deferred effective date proposal for the
17 reasons set forth in the CBJ's brief on this issue filed on
18 December 13, 1990. This memorandum will address the CBJ's comments
19 on the DCRA's draft recommendation.

20 II. Comments on DCRA's Draft Recommendation

21 The CBJ disagrees with the characterization of the deferred
22 effective date proposal as "[m]anipulation of local government
23 boundaries to grant tax relief." DCRA Draft Recommendation, p. 11.
24 The CBJ is not attempting to "manipulate" its boundaries or the
25 annexation process. Rather, the deferred effective date proposal
is intended to result in an annexation which will finally settle

1 state's "best interests" and that because of the various delays in
2 the consideration of this petition, the Greens Creek Mine has
3 already gained a large measure of the tax relief it seeks. DCRA
4 Draft Recommendation at p. 11. First, the fact that the soonest
5 the annexation could take effect now is March 1992 does not mean
6 that the LBC should not grant the requested deferral. Second, DCRA
7 was apparently not so concerned with the education funding formula
8 issue, or the immediate extension of services issue, or the other
9 reasons it now finds necessitate its recommendation that the
10 deferred effective date be denied, when it recommended that action
11 on the annexation petition be delayed for a full year after its
12 submittal in June 1989 in order for DCRA to undertake the model
13 boundary study.

14 In short, the adverse financial impacts on the state resulting
15 from the grant of the deferral are negligible, whereas the
16 potential adverse financial impacts on the Greens Creek Mine, and
17 consequently the CBJ, resulting from the denial of the deferral are
18 substantial. And, while granting municipal tax exemptions may be
19 DCRA's preferred alternative for addressing the economic concerns
20 raised by the CBJ and Greens Creek, this is simply not a workable
21 or practical solution for the CBJ. Finally, the CBJ believes that
22 issues of "taxpayer equity" are concerns to be addressed by the
23 local government, not the LBC through a decision on an annexation
24 petition. DCRA Draft Recommendation, p. 7.

25 ///

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III. Summary

The CBJ urges the LBC to approve the CBJ's proposal to defer the effective date of the Greens Creek annexation until January 1, 1994. This proposal represents a cooperative approach between the affected industry, the municipality and the state, and it would meet all of the goals and objectives of the annexation without jeopardizing the long-range growth and diversification of the CBJ's economy through the sound development of the mining industry in the Juneau area.

Respectfully submitted this 3rd day of April, 1991.

CITY AND BOROUGH OF JUNEAU, ALASKA
PETITIONER

By:


Barbara J. Blasco
City-Borough Attorney

CITY/BOROUGH ATTORNEY
CITY AND BOROUGH OF JUNEAU
155 S.W. SILWARD ST.
JUNEAU, ALASKA 99801
TELEPHONE 586-5242

STATE OF ALASKA
LOCAL BOUNDARY COMMISSION

IN THE MATTER OF THE ANNEXATION)
OF THE GREENS CREEK MINE AND)
SURROUNDING TERRITORY TO THE)
CITY AND BOROUGH OF JUNEAU)

AFFIDAVIT OF SERVICE

I, Marian J. Miller, being first duly sworn, hereby depose and say as follows:

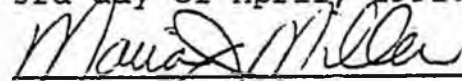
1. I am a legal secretary with the City and Borough of Juneau.

2. On April 3, 1991, copies of City and Borough of Juneau's Comments on the Draft Recommendation on the Proposal to Defer the Effective Date for the Annexation of the Greens Creek Mine were served by U.S. mail to:

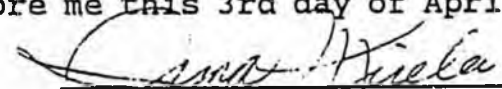
Dan Bockhorst
Grants and LBC Supervisor
State of Alaska
Dept. of Community & Regional Affairs
949 East 36th, Room 405
Anchorage, AK 99508

James F. Clark
Attorney at Law
Robertson, Monagle, & Eastaugh
240 Main Street, Suite 800
Juneau, AK 99801

DATED at Juneau, Alaska, this 3rd day of April, 1991.


Marian J. Miller

SUBSCRIBED AND SWORN to before me this 3rd day of April, 1991.


Notary Public in and for Alaska
My commission expires: 2/21/95

1 STATE OF ALASKA
2 LOCAL BOUNDARY COMMISSION

3 IN THE MATTER OF THE ANNEXATION)
4 OF THE GREENS CREEK MINE AND)
5 SURROUNDING TERRITORY TO THE CITY)
6 AND BOROUGH OF JUNEAU)

7 KENNECOTT GREENS CREEK MINING COMPANY'S COMMENTS ON THE
8 DRAFT RECOMMENDATION ON THE PROPOSAL TO DEFER THE
9 EFFECTIVE DATE FOR THE ANNEXATION OF THE GREENS CREEK MINE

10 I. INTRODUCTION

11 On November 10, 1990, the Local Boundary Commission (LBC)
12 granted Kennecott Greens Creek Mining Company's (KGCMC's) request
13 that the LBC reconsider its September 6, 1990 and October 8, 1990
14 decisions rejecting the City and Borough of Juneau's (CBJ's)
15 August, 1990 request to defer the effective date of the annexation
16 of the Greens Creek mine until January 1, 1994. The LBC limited
17 reconsideration to the sole issue of whether or not to defer the
18 effective date of the CBJ annexation.^{1/}

19 On December 13, 1990, the CBJ submitted its brief in
20 support of the proposed amendment [i.e. the January 1, 1994
21 deferred effective date] to the Greens Creek Mine annexation
22 petition (hereinafter "December 13, 1990 brief").

23 On February 8, 1991, KGCMC filed its answering brief
24 supporting the CBJ position.

25 On March 15, 1991, the Department of Community and
26 Regional Affairs submitted its draft recommendation to deny the

1/ KGCMC has previously asserted and continues to assert that
the LBC did not have authority to approve the application for
annexation after it was withdrawn by the CBJ Assembly on July 13,
1989. (See KGCMC's October 29, 1990 Request for Reconsideration.)

1 proposal to defer the effective date for the annexation for the
2 Greens Creek Mine (hereinafter department draft).

3 On April 3, 1991, CBJ commented upon the draft recommen-
4 dation submitted by the Department. KGCMC completely supports
5 those comments.

6 II. ARGUMENT

7 The procedural background of this matter is completely
8 set forth in the CBJ's December 13, 1990 brief at pages 1-3.

9 A. The LBC Has The Authority To Defer The Effective Date.

10 All parties agree that the LBC has authority to defer the
11 effective date of the proposed annexation. The Department argues
12 that the Haines case, in which such deferral authority was
13 established, is not analogous to this decision. Whether it is or
14 is not analogous is really not relevant to this case - the point is
15 that the LBC has such authority. Therefore, the question before
16 the LBC is whether it should be exercised in this case.

17 B. Analysis Of The Situation

18 In its December 13, 1990 brief, the CBJ set forth a very
19 clear set of reasons for requesting deferral. At pages 3-5, the
20 CBJ describes how in its annexation discussions and negotiations
21 with KGCMC, the parties resolved all of the issues except for the
22 economic impact which immediate annexation would have upon the
23 Greens Creek Mine and its expansion plans. At pages 6-11, the CBJ
24 brief recounts the steps which the CBJ has taken to analyze the
25 annexation timing question. It also describes why the CBJ reached
26 the conclusion that the 1994 date would at once achieve CBJ's goal

1 of annexing the mine, while protecting its economic viability (CBJ
2 Brief at page 7). The CBJ brief then points out in detail why the
3 deferred effective date proposal is the best method of addressing
4 the financial alternatives which CBJ found to exist in this case
5 (CBJ Brief at pages 8-11).

6 As a matter of LBC policy, this carefully thought through
7 process should be followed unless there is an overriding State
8 interest involved. While not intending to have this effect on the
9 reader, the Department's failure to provide record support for the
10 points made in its draft provides compelling evidence that there is
11 no overriding State (or even LBC) interest in denying the CBJ
12 request. Accordingly, the CBJ request should be granted.

13 C. Was The CBJ Correct In Basing Its Action On The
14 Concern That The Mine Would Be Adversely Affected?

15 The CBJ staff negotiated with and worked with the KGCMC
16 officials to determine the facts, and then set them forth on the
17 public record at hearings held on the matter by the CBJ Assembly.
18 On the other hand, Department staff has never talked with KGCMC or
19 asked KGCMC for information about the economic situation at the
20 mine, the economic reasons why deferral was requested, the plans
21 for expansion or anything else.

22 Nevertheless, the Department draft takes issue with the
23 CBJ's determination that the deferred effective date is necessary
24 to avoid economic hardship to the mine. The Department's sole
25 support for this assertion (which seeks to contradict the CBJ's
26 analysis described above) is a February 25, 1991 Anchorage Times
article and undocumented "reports" that "the Greens Creek Mine has

1 strong financial backers and is believed by some to be 'nicely' in
2 the black ink." (Department Draft at page 6)

3 The use of a newspaper article and uncited, undocumented
4 "reports" is insufficient as a matter of administrative law to
5 support the Department's assertion that Greens Creek is "nicely in
6 the black ink." We leave it to the LBC to decide whether, as a
7 matter of administrative law, it is willing to substitute a
8 newspaper article and "reports" for specific, local government
9 findings.

10 In fact, as described in paragraph 5 of the attached
11 affidavit of Cliff Davis, the Manager of the Greens Creek Mine, the
12 world prices for lead, zinc and silver have dropped so low that it
13 is unlikely that the mine will be profitable in 1991 or 1992.
14 Furthermore, it may be that the mine must be expanded to an optimum
15 level before it can become profitable. (Davis Affidavit at ¶ 3).
16 KGCMC is considering such expansion. Until that time, the
17 employees of KGCMC have taken an across the board pay cut of
18 approximately 10% (Davis Affidavit at ¶ 5). In short, the CBJ was
19 absolutely correct when it stated at page 3 of its comments:

20 "[t]he financial impacts on the state resulting
21 from the granting of the deferral are negligible,
22 whereas the potential adverse financial impacts on
23 the Greens Creek Mine and consequently the CBJ
24 resulting from the denial of the deferral are
25 substantial."

26 Since, for the reasons given above, the Department's position is
contrary to the CBJ's findings and Mr. Davis' affidavit, and is
insufficient as a matter of administrative law; the only facts
legally before the LBC on this point compel the conclusion that

1 deferral is necessary to avoid significant adverse, economic
2 impacts upon the mine.

3 D. What Is The Best Financial Alternative To The
4 Problem?

5 In its December 13, 1990 brief, the CBJ argues that
6 deferring the effective date is the best alternative for addressing
7 the financial situation. The Department does not claim that the
8 CBJ is wrong in its analysis. Indeed, it acknowledges that if tax
9 relief is granted to the mine, the deferred annexation is probably
10 the most desirable approach "from the standpoint of CBJ officials"
11 (Department Draft at page 7).

12 The Department draft then tries, but fails, to show that
13 there is a "higher state interest" involved. In yet another
14 unsupported and, therefore, improper determination, the draft
15 states:

16 "Not reflected in the CBJ brief is the fact that
17 the proposed deferral of the annexation of the
18 Greens Creek Mine results in higher taxes for
19 others in Juneau."

20 Since there is no basis for this statement, it should be stricken.

21 Likewise irrelevant, is the point made at page 8 that "by
22 deferring the annexation, the State of Alaska bears an estimated
23 additional \$248,000 in annual payments to the CBJ under the
24 education foundation formula for the length of the deferral." This
25 simply represents a windfall. The KGCMC requires no school support
26 at the mine site. All of the children of the miners are educated
in Juneau, where their parent/KGCMC employee pay taxes to the CBJ.
This is not a reason to discount the CBJ's arguments that not only

1 is deferral the best method for addressing the financial issues
2 from CBJ's point of view, but also from the State of Alaska's point
3 of view.

4 In short, KGCMC urges the LBC to compare the points made
5 at pages 8-11 of the CBJ's December 13, 1990 brief with pages 7-8
6 of the draft recommendation to see why there is simply no basis for
7 the LBC to substitute the Department's superficial analysis for the
8 carefully developed position of locally elected officials. The
9 Department has offered no reasons showing that the CBJ's determina-
10 tions were "parochial," as it claims at page 8 of the draft. All
11 it has submitted are unsupported, undocumented assertions of
12 opinion by Department staff.

13 E. Greens Creek Is Not In Immediate Need Of Municipal
14 Services.

15 At page 10, the Department draft argues that the Greens
16 Creek Mine is in need of CBJ's services. The attached affidavit of
17 Mr. Davis disputes that assertion. There is not a single service
18 that the CBJ can offer that Greens Creek "needs." (Davis Affidavit
19 at ¶ 2) The mine is completely self-sufficient and has its own
20 emergency response team for medical problems. With respect to
21 support services for mine employees, the mine employees pay for
22 those services through their own taxes.

23 The Department's argument goes on to state that KGCMC has
24 a need for planning and zoning and coastal management tax assess-
25 ment and collection and building inspection. These are the very
26 problems associated with annexation that both the CBJ and KGCMC are
seeking to avoid by deferral and thus, the statement is ludicrous

1 on its face. Indeed, the argument that these services are needed
2 immediately and cannot await the deferral date is belied by the
3 LBC's own action of deferring consideration of the annexation
4 request in July 1989 while it reviewed model boundaries for the
5 area. As the CBJ points out in its April 3, 1991 comments in
6 response to the draft, the arguments made at page 11 by the
7 Department are both demeaning and speculative in the extreme.
8 While the LBC has authority to overrule local officials, the
9 Department draft provides no analysis which would support the LBC
10 substituting its judgment for the CBJ's in this case.

11 III. CONCLUSION

12 In conclusion, the Department's recommended denial of the
13 CBJ request for deferral is not supported by the record. It
14 presents no reasons why the deferral recommended by the CBJ should
15 not be approved. The LBC has the authority to approve the deferred
16 effective date. CBJ and KGCMC have shown there is economic
17 necessity requiring deferral. The CBJ has decided that deferral is
18 the best method for achieving this economic objective. The
19 Department has presented no reason other than anecdotal opinion why
20 the CBJ cannot be accommodated. For all of these reasons, the
21 CBJ's request should be granted.

22 DATED at Juneau, Alaska this 15th day of April, 1991.

23 ROBERTSON, MONAGLE & EASTAUGH, P.C.

24
25 By: James F. Clark
26 James F. Clark, Of Attorneys
for Greens Creek Mining Company

STATE OF ALASKA
LOCAL BOUNDARY COMMISSION

IN THE MATTER OF THE ANNEXATION)
OF THE GREENS CREEK MINE AND)
SURROUNDING TERRITORY TO THE CITY)
AND BOROUGH OF JUNEAU)
_____)

AFFIDAVIT OF CLIFF DAVIS

STATE OF ALASKA)
:)
FIRST JUDICIAL DISTRICT)

I, Cliff Davis, being first duly sworn, under oath, do depose and state as follows:

1. I have been involved in the mining industry for 27 years. I have been the Manager of Greens Creek Mine, operated by KGCMC for 1.5 years.

2. The CBJ is not presently providing municipal services to the mine and there is no need for such services. The mine provides all of its own support services, including emergency medical treatment. There has never been a need for use of police assistance at the mine area. Were such a need to arise, our plan calls for flying in State Troopers from Juneau. Support services for employees in Juneau are paid for by property taxes paid for by our employees in the CBJ.

3. The Greens Creek Mine is not currently profitable and will not be profitable under current circumstances. In order for the mine to become profitable, the worldwide prices of zinc, lead and silver must go up substantially. Alternatively, expanding the size of the mill and mine operations to an optimum level may improve profitability.

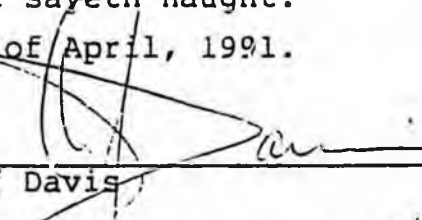
4. Since KGCMC can do nothing about the world market price for lead, zinc and silver, it is evaluating the potential of expanding the mill and the mine. This will require an increased capital expenditure at a time when the mine is already unprofitable. The added tax and regulatory burdens which annexation would cause could jeopardize the willingness of KGCMC to go forward with such an expansion project.

5. Because the world prices for lead, zinc and silver have dropped so low, and because it is unlikely that the mine will be profitable in 1991, or 1992, on April 5, 1991, we asked the employees of KGCMC to take an across the board pay cut of approximately 10%.

6. I have read the draft recommendation on the proposal to defer the effective date of the annexation of the Greens Creek Mine prepared by the Department of Community and Regional Affairs. No one in the Department has consulted with me regarding the economic situation of the Greens Creek Mine. I know of no basis for the statement of Warren Meyers from Merrill Lynch & Company in New York set forth in the Anchorage Times article of February 25, 1991 cited at page 6 of its draft for the proposition that Greens Creek "is nicely in the black ink." I have no knowledge of the "reports" referred to by the Department at page 6 of the draft.

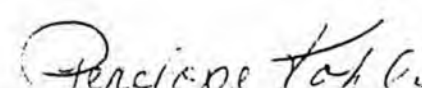
FURTHER YOUR affiant sayeth naught.

DATED this 15th day of April, 1991.



Cliff Davis

SUBSCRIBED and SWORN to before me this 15th day of April, 1991.



Notary Public, State of Alaska
My commission expires: 11/14/94

ROBERTSON, MONAGLE & EASTAUGH, P.C.
COURT PLAZA BUILDING, SUITE 800
240 MAIN STREET
PO BOX 21211, JUNEAU, ALASKA 99802
PHONE (907) 586-3340

1 STATE OF ALASKA
2 LOCAL BOUNDARY COMMISSION

3 IN THE MATTER OF THE ANNEXATION)
4 OF THE GREENS CREEK MINE AND)
5 SURROUNDING TERRITORY TO THE CITY)
6 AND BOROUGH OF JUNEAU)

7 CERTIFICATE OF SERVICE

8 The undersigned hereby certifies that on April 15, 1991,
9 a true and correct copy of Kennecott Greens Creek Mining Company's
10 Comments on the Draft Recommendation on the Proposal to Defer the
11 Effective Date for the Annexation of the Greens Creek Mine was
12 mailed, U.S. postage prepaid to the following parties of record:

13 Dan Bockhorst
14 Grants and LBC Supervisor
15 State of Alaska
16 Dept. of Community and Regional Affairs
17 949 East 36th, Room 405
18 Anchorage, AK 99508

19 Barbara Blasco
20 City-Borough Attorney
21 City and Borough of Juneau
22 155 So. Seward Street
23 Juneau, AK 99801

24 
25 Sandra R. Dallas

26

BACK TO
BUSINESS
The Anchorage Times

MONDAY
 February 25, 1991

Juneau mine weathers silver price drop

ASSOCIATED PRESS

JUNEAU — The Greens Creek Mine, North America's largest silver mine, is facing tough times as silver prices hit a 17-year low, but mine officials and others say the mine's low production costs will help it ride out the rough times.

Productivity standards and cost controls are the key, said Cliff Davis, general manager for the Admiralty Island mine, about 20 miles west of Juneau.

Davis declined to say what the silver production costs are,

but other experts said they were about \$2 per ounce.

Davis did say the mine plans no changes in its work force, which at 260 makes Greens Creek the largest private-sector employer in the Juneau area.

Greens Creek, which opened two years ago, still has areas that could benefit from further fine-tuning, Davis said. For instance, the mine is experimenting to improve the ore separation process.

"The better quality products we produce, the better price we

can get from those products from the smelters," Davis said.

Greens Creek produces three products: a lead concentrate, a zinc concentrate and a combined low-grade lead and zinc concentrate. Each contains different amounts of silver and gold, Davis said.

Greens Creek does not rely solely on silver, but the value of the other metals it mines — gold, zinc and lead — also are on the downturn.

Metals analysts say times are bad for the industry.

"If you watch the price of silver over the last six months or so, it's almost like it's fallen off the edge of a cliff," said Warren Myers, vice president of capital markets for Merrill Lynch & Co. in New York.

Silver's peak price in 1990 was \$5.33 an ounce, compared with a low of \$3.63 on some markets Thursday.

Greens Creek, however, has strong backers, Myers said.

Kennecott Corp. of Salt Lake City owns 53 percent of the mine. Kennecott is a subsidiary

of Rio Tinto Zinc Corp., London, a major worldwide minerals producer.

Hecla Mining Co. of Coeur d'Alene, Idaho, is a 28 percent owner of the Greens Creek mine. The other owners are CSX Energy Inc. of Virginia, with a 12.6 percent interest, and Exalys Resources of Toronto, with 6.3 percent ownership.

Hecla has not escaped the reality of low silver prices. The company closed down some of its mining operations in 1990.

See Mine, page

Mine

Continued from page C1

because of low prices. Production costs at Hecla's Lucky Friday mine in Idaho are about \$4.50 an ounce—about 80 cents higher than what the metal is worth on today's market, Myers said.

"Despite the fact that the silver price has fallen ... I think (Greens Creek) is nicely in the black ink," Myers said. "The whole operation appears to be pretty well run."

Myers visited Juneau last year to look over the Greens Creek project. He spoke in a telephone interview last week.

Greens Creek production of silver costs about \$2 an ounce, Myers said.

Zinc has not went for about 70 cents a pound, compared to about 60 cents a pound last week. A pound of lead sold for about 37 cents last year and is currently trading about 33 cents a pound on world markets.

There is a great deal of potential

for silver's low price, observers said.

Silver production is greater than demand, even though the surplus is becoming smaller, Myers said.

In addition, fears of recession have scared away many investors, leaving manufacturing demand as practically the sole force behind the silver market.

The photographic industry is the largest source of that demand, and even during recessionary times people continue taking pictures, Myers said. But silver is also used heavily in the electronics industry, which has been hit hard by the recession.

It doesn't look as though silver prices are headed for a rebound any time soon, Myers said.

On Jan. 17, silver dropped to \$4 per ounce—after the price of the allied forces returned from successful bombing missions in the Persian Gulf War. The market took the view that the war would be relatively short and would end with a U.S. victory, Myers said. Silver has been trading below \$4 ever since.

Myers predicts silver

bottom out at \$3.50 per ounce and only climb to \$4.20 per ounce—tops—during 1991.

Vahid Fathi, a metals and mining analyst for Prescott, Ball and Turben in Cleveland, said he doesn't expect to see today's prices change much in the near future.

"There is simply too much silver being produced, far and

above what is needed to satisfy the industrial demand and whatever little investment demand is left," Fathi said.

One reason there is so much silver on the market is that the precious metal is often mined as a byproduct, said Juneau economist Jim Calvin of the McDowell Group.

"Even when the price of all-

ver collapses and silver mines in Idaho close, there's still all this silver being produced in gold mines and lead mines and zinc mines," Calvin said. "They're going to mine it and produce it anyway because it's just gravy for their operation."

Greens Creek in 1990 mined about 285,000 tons of ore and produced about 7.6 million

ounces of silver, 38,000 ounces of gold, 37,000 tons of zinc and 16,300 tons of lead, according to a 1990 summary report on Alaska's minerals industry from the state Division of Geological and Geophysical Surveys.

Every ton of ore mined at Greens Creek contains about 22 ounces of silver and about 0.1 ounce of gold, Davis said.

Closeout! The sale you've been waiting for. We must clear showroom space for exciting new furniture lines. Our extensive, hand-selected collection of oriental rugs must be reduced immediately. We are excited about our ability to offer you a genuine SAVINGS of 20% to 50% on the finest rugs available today. But hurry, when they're gone, they're gone.

BBB & ASSOCIATES INC.

Greens Creek to cut hours, travel pay

By KATE RIPLEY
and SHERRY SIMPSON

THE JUNEAU EMPIRE

Effective next month, Greens Creek mine workers will have their shifts reduced by one-half hour a day and receive no pay for time spent traveling to and from the Admiralty Island silver mine, manager Cliff Davis said Thursday.

The changes, imposed because of low silver prices, will affect about 240 workers at the mine, Davis said.

"We would hope that the present

metal prices are a temporary phase, but they are severe enough and they've gone on long enough that they've affected profitability of the operation and we have to take measures," he said.

Silver traded on world markets today at between \$3.95 and \$4.05 an ounce. Mineral industry analysts say the precious metal is at a 17-year low.

"We cannot ride it out without taking some steps," Davis said.

Please turn to Cut, Page 8

Cut...

Continued from Page 1

In addition to cuts in hours worked and travel pay, Greens Creek has also implemented a wage freeze for 1991, Davis said.

But there have been no wage cuts or layoffs, he said.

Davis announced the cost-cutting plan to workers Thursday. The measures trim nine-hour shifts by 30 minutes, eliminating a half-hour of overtime pay.

One benefit to workers is that they will get home that much earlier, Davis said.

Workers also will lose a \$25 daily payment for the approximately 45-minute boat ride each way between the mine and the company's Auke Bay dock, he said.

"Nobody is happy, which is pretty obvious," Davis said of mine employees. "But I believe that the majority of our employees understand that it's a difficult time we're trying to get through and it's better that we

all make some sacrifices to try and keep the operation viable, rather than see it go under."

He said in February that strict cost-controls on company overhead and efficient productivity standards were being implemented to help the silver mine - the largest in North America - through the slump in prices.

Greens Creek employees in February overwhelmingly rejected a trio of labor unions - the United Mine Workers, Juneau Building Trades-Alaska Mining Division and the United Steelworkers of America. Of 194 workers who voted, 141 opted for no union.

UMW organizers had warned workers that such cuts in their hours and pay were possible.

Davis said, "The timing is lousy, there's never a good time to do this sort of thing and there's never a time to be faced with the economic situation we're faced with."

Vahid Fathi, a metals and mining analyst for Prescott, Ball and Turben in Cleveland, Ohio, said Greens

Creek is not alone in its struggle to survive the downturn.

"It's a painful thing for everybody," he said.

For the mine workers, the company's strategy will mean tightening their own budget belts. One family figures the cutbacks will reduce their monthly income by about \$600.

A mine worker's wife, who asked not to be identified, said her husband and other workers were not really surprised by the company's announcement. "He came home last night and he said, 'We were waiting for the ax to fall, and something happened today.'"

The couple is resigned to the company's decision "in light of what's going on with silver mines in other parts of the states," she said.

Her family has faced this situation before, when her former state government job also was cut back, she said. Once again, the family will trim expenses, and she may look for a part-time job, she said.

"What does anybody do? Eat more beans," she said.

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May 22, 1991

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

Mr. Dan Bockhorst
Alaska Department of Community
and Regional Affairs
949 East 36th Avenue, Suite 400
Anchorage, Alaska 99508-4302

Re: Annexation of Greens Creek

Dear Mr. Bockhorst:

Thank you for your letter of May 13, 1991, inviting Greens Creek to provide additional information regarding the existing financial status of the mine and how the property and sales tax burdens imposed by annexation would further erode the capacity of the mine to continue operations. We know the following already:

(1) the City and Borough of Juneau has determined that the deferred effective date is necessary to avoid economic hardship to the mine;

(2) Mr. Davis' affidavit states at paragraph 3 that the mine is not currently profitable "and will not be profitable under current circumstances."

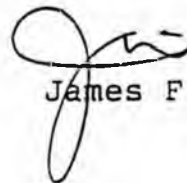
(3) world market prices for zinc and silver have dropped substantially. When the mine opened in August 1989, the price of zinc was \$.80 per pound and the price of silver was \$5.12 per ounce. The price of zinc in May 1991 is \$.50 per pound and the price of silver is \$4.00 per ounce. This 38% drop in the price of zinc and 22% drop in the price of silver make it reasonable to assume that the economic viability of the mine has dropped precipitously along with the decline in prices.

Mr. Dan Bockhorst
May 22, 1991
Page 2

(4) Greens Creek is considering expansion as a means to improve mine economics. In this regard, it is important to note that once annexation occurs, Greens Creek will be subject to the large mine permit. Thus far, it has cost Echo Bay several hundred thousand dollars to process its permit application under the CBJ large mine development permit requirement. This amount needs to be added to the property tax and sales tax amounts which Greens Creek would have to pay were the mine to be annexed.

Kennecott Greens Creek Joint Venture does not produce the type of financial report which you requested. The figures on the gross value of the product, cash production costs and other relevant information is not public information and under the agreement among the partners cannot be made public. However, we invite you or other members of the Commission to review the joint venture's economics on a confidential basis. That is, we would make the figures available to LBC staff and CBJ staff to form a judgment about the credibility of Mr. Davis' statements in his affidavit. You then could make a general report to the Commission based upon what you saw in qualitative terms for the record. Please let me know if this is acceptable to you.

Yours very truly,



James F. Clark

JFC:sd/520
cc: Cliff Davis

TESTIMONY OF JAMES F. CLARK
Representing Greens Creek Mining Company

I am pleased that the Local Boundary Commission (LBC) has given Greens Creek Mining Company the opportunity to discuss its Request for Reconsideration regarding the annexation petition of the City and Borough of Juneau (CBJ). I hope the commissioners have had an opportunity to review our request for reconsideration. I urge the commission to grant Greens Creek's request.

POLICY CONCERNS

Greens Creek would not be here today if it felt that the manner in which the LBC dealt with the CBJ annexation petition fairly provided adequate due process. Granted, the LBC has never dealt with a withdrawn petition before, but looking at its decisional process overall, the process which the LBC followed precluded reasonable discussion or consideration of the deferred effective date requested by the CBJ in its August 20, 1990 petition. If the LBC had encouraged a full discussion of this matter, it may have reached a different conclusion.

Greens Creek's Request for Reconsideration cites six Points of Error.

Point One concerns the LBC decision to approve the CBJ June 1, 1989 petition after the petition was withdrawn. Once the CBJ withdrew its petition, under the applicable law the LBC had nothing on which to act. The reasons why the LBC subsequently seemed unsure of what to do, stem from this first decision. At that point, the LBC should have said "the June 1, 1989 petition is dead.

If the CBJ is interested in annexing Greens Creek, it should submit another petition under the procedure in the LBC regulations."

Point Two, of course, is related to Point One. At its September 6, 1990 meeting, the LBC tried to take action on what in essence was a new petition. The commission was hesitant to act on the CBJ's request for the deferred effective date because the request did not fit into any procedural box that the commission was used to. If the commission had treated the CBJ request as a new petition and required a new notice and public hearings on the issue, it would not have had to structure its motion as it did at the meeting. If you recall, your legal counsel warned you that if you took action on the merits of the request, the commission would need to hold a public hearing. The LBC then decided to not take action on the merits, but simply determined that its prior request for an immediate effective date would stand.

Arguably, the LBC may consider the CBJ request for a deferred effective date as an amendment to the original petition. But even in that circumstance, the LBC has been told by the Alaska Supreme Court in Pavlik v. State that an amendment at least requires a new public hearing. We did not even get that.

Some commissioners may believe that because both the CBJ and Greens Creek were aware of the September 6, 1990 meeting and submitted testimony, there is no procedural problem. The issue is not whether there was notice and an opportunity to be heard, but whether the procedures the LBC relied on provided for full consideration of the delayed effective date proposal in the CBJ's

August 20, 1990 resolution. Once the LBC chose not to consider the merits of the CBJ request through its "no action" motion, the opportunity for open discussion died.

This procedural maneuver is what damaged Greens Creek. If the CBJ and Greens Creek had really had an opportunity to argue its case at another public hearing, the LBC may have accepted a delayed effective date as it had in 1985 with respect to a Haines annexation. In fact, at one point the LBC seemed to be leaning toward granting the CBJ's request. It then backed away because its legal counsel said the LBC could not act on the merits of the request.

Greens Creek submits that when the commission chose "not to act" it in essence denied the request.

Point Three deals with the LBC's lack of consideration of the deferred effective request. The LBC has admitted that it did not seriously consider the request of the CBJ Assembly.

Greens Creek takes the position that all issues surrounding a proposed annexation should be taken seriously. If this is not the case, then legitimate concerns of any local government can be ignored. In this case, the CBJ listened to Greens Creek and recognized that if the company was taxed immediately, it may have a detrimental effect on the community. That is a valid concern. If the CBJ chose to defer the effective date in order to assist a new development project, it was wholly within its rights to ask for consideration of a later annexation date. It was not as if the LBC had never approved an annexation petition with a deferred effective

date, the LBC approved the City of Haines petition which also requested a two year deferred effective date. The CBJ request at least deserved the same type of consideration given the City of Haines.

Point Four concerns an issue of law that requires that the record reflect the deliberations of the administrative agency. Because the LBC refused to discuss the merits of the CBJ request for a deferred effective date due to its concerns about the need for a public hearing, the LBC cannot stand on its record as supporting its position. As the commission has admitted, it did not seriously consider the deferred effective date request. The one instance where a commissioner tried to articulate his reasons for objecting to the request were apparently said in a hyperbolic manner.

Point Five examines the LBC disparate treatment of the CBJ petitions of August 20, 1990 and September 17, 1990. Both of the petitions were not immediately effective. While the September 17, 1990 did not ask for a two year deferral, it was contingent on a future event, i.e., the denial of Greens Creek's request for reconsideration. The LBC did not address the lack of an immediate effective date at its September 22, 1990 meeting. Greens Creek believes that this again shows that the LBC did not consistently follow its own rules and hence its action was arbitrary.

Point Six looks at the decision of the LBC on the Fairbanks North Star Borough petition and the CBJ petition. The LBC has attempted to distinguish the two petitions in its FNSB Statement of

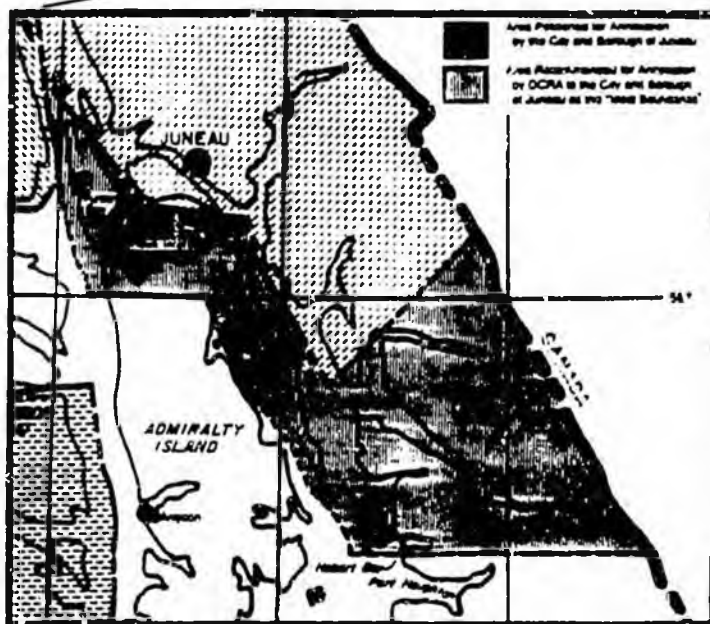
Decision. But on close review, the distinctions are without a difference. In addition, the Department of Community and Regional Affairs letter of July 30, 1990, further supports the position that the LBC acted arbitrarily on the annexation of Greens Creek.

CONCLUSION

Greens Creek urges the commission to grant its request for reconsideration because the proper measure of due process has not occurred to date. In order to rectify the situation, the CBJ petition with the 1994 deferred effective date should be noticed and the LBC procedures begun anew. This would give all interested parties the opportunity to submit testimony on the issue and allow the commission to make an informed decision.

**REPORT AND RECOMMENDATION TO THE
LOCAL BOUNDARY COMMISSION CONCERNING THE:**

- 1) PROPOSED ANNEXTION OF THE GREENS CREEK MINE TO THE CITY AND BOROUGH OF JUNEAU,
- 2) IDEAL BOUNDARIES OF THE CITY AND BOROUGH OF JUNEAU.



STEVE COWPER
GOVERNOR

DAVID G. HOFFMAN
COMMISSIONER



JUNE, 1990

JUNEAU ANNEXATION/MODEL BOUNDARIES

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JUNEAU ANNEXATION/MODEL BOUNDARIES

SECTION I - INTRODUCTION

A. General Background

This report has three primary objectives. These are:

1. To examine and evaluate the proposal of the City and Borough of Juneau (CBJ) to annex approximately 140 square miles, including the Greens Creek mine;
2. To examine the annexation proposal in the context of the "ideal" boundaries for the City and Borough of Juneau; and
3. To provide the Local Boundary Commission with recommendations for action regarding the annexation petition and determination of the ideal boundaries of the CBJ.

B. Role of the Alaska Local Boundary Commission

The Local Boundary Commission (Commission or LBC) was created under Alaska's Constitution to address municipal incorporations, boundary changes and related actions. It is one of only two State boards established by the Constitution (the other being the University Board of Regents).

Thirty-four years ago, the delegates to Alaska's Constitutional Convention concluded, after considerable study and debate, that establishment and revision of local government boundaries should be the responsibility of the State. Thus, the Constitution (Article X, Section 12) provides that:

A local boundary commission or board shall be established by law in the executive branch of state government. The commission or board may consider any proposed local government boundary change . . .

Shortly after Statehood, the Alaska Supreme Court summed up the extensive considerations which led the Constitutional Convention delegates to this position:

An examination of the relevant minutes of [a series of 31 meetings held by the Committee on Local Government at the Constitutional Convention] shows clearly the concept that was in mind when the local boundary commission section was being considered: that local political decisions do not usually create proper boundaries and that boundaries should be established at the state level. The advantage of the

JUNEAU ANNEXATION/MODEL BOUNDARIES

method proposed, in the words of the committee — "lies in placing the process at a level where areawide or statewide needs can be taken into account. By placing authority in this third-party, arguments for and against boundary change can be analyzed objectively." (Fairview Public Utility District No. 1 v. City of Anchorage; 368 P.2d 540).

The Commission is charged with the responsibility to review and act upon a variety of municipal jurisdictional issues. These consist of proposals for: 1) annexations to cities, boroughs and unified municipalities, 2) incorporations of cities and boroughs, 3) merger and consolidations of cities, boroughs and unified municipalities, 4) detachments from cities, boroughs and unified municipalities and 5) dissolution of cities, boroughs and unified municipalities.

C. Composition of the Commission

The Commission consists of five members appointed by the Governor. Appointment of Commission members insures statewide representation. One member is appointed from each of Alaska's four judicial districts. The Chairman is appointed from the state at-large.

Members are appointed by the Governor "on the basis of interest in public affairs, good judgment, knowledge and ability in the field". The Local Boundary Commission is a citizen commission, that is, members are not State employees and receive no compensation for service.

D. Present Membership of the Commission

Provided below is a brief introduction to each of the five members of the Commission:

C.B. Bettisworth, Chairman. Mr. Bettisworth was appointed to the Commission in 1980, serving from the Fourth Judicial District. In 1987 he was appointed Chairman of the Commission. Mr. Bettisworth is an architect by profession and manages his own architecture, planning and project development firm. Mr. Bettisworth has served as a member of the Local Boundary Commission under three Governors. As LBC Chairman, Mr. Bettisworth serves at-large. He resides in Fairbanks.

Shelley Dugan, Vice Chairman. Ms. Dugan was appointed to the Local Boundary Commission in 1987 serving from the Fourth Judicial District. She was elected Vice-Chairman of the Commission the following year. Ms. Dugan is the City Clerk/Treasurer for the City of North Pole. She resides in Fairbanks.

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Jo Anderson. Ms. Anderson was appointed to the Commission in 1975 serving from the First Judicial District. She is employed by the Alaska Department of Health and Social Services. During her tenure with the Commission, Ms. Anderson has served three Governors. She resides in Wrangell.

Lamar Cotten. Mr. Cotten was appointed to the Local Boundary Commission in 1988 serving from the Third Judicial District. He is employed as the Borough Administrator of the Aleutians East Borough. Mr. Cotten resides in Anchorage.

Guy Martin. Mr. Martin was appointed to the Commission in May of 1989. He is employed as the Lands Manager for the Bering Straits Native Corporation. Mr. Martin resides in Nome.

E. Technical Support For the Commission

The Alaska Department of Community and Regional Affairs (Department or DCRA) provides technical and administrative support to the LBC.

Under the law, the Department is required to examine the proposed annexation and issue a formal report and recommendation for consideration by the Commission.

However, the Commission and the Department are independent of each other. The Department's recommendations, such as those contained in this report, are not binding upon the Commission.

The Department's report often serves as a mechanism to focus thought and discussion upon issues which typically emerge when major annexations to existing borough governments are proposed. Often, the DCRA report serves as a "point of departure" as these issues are examined in the Commission's public deliberative process.

F. Actions Which May Be Taken on CBI Petition

The LBC has various options for action with respect to the pending CBI annexation petition. These are:

- The annexation petition could be accepted as submitted,
- The petition could be rejected, or
- The petition could be amended and approved.

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The first two are options are simple — basically involving either approval or refusal of the requested annexation.

The Local Boundary Commission may also amend petitions. Amendments may consist of expanding or reducing the area proposed for annexation. The Commission may also amend the petition to provide that an alternative method of annexation be used. Any amendment, particularly in the case of an expansion of boundaries, carries with it the responsibility to ensure that rights to due process are protected.

If the Commission approves a petition for annexation under the legislative review process, the legislature must reject the petition to prevent it from taking effect.

G. Model Borough Boundary Project

On June 7, 1989, the LBC published notice that it was postponing consideration of pending proposals for all borough annexation and incorporation petitions. This decision affected not only the petition from the City and Borough of Juneau, but also petitions for annexation submitted by two other boroughs (Matanuska-Susitna and Fairbanks North Star). In addition, two petitions for incorporation of boroughs were affected (Denali and Valleys Boroughs).

A formal statement issued by the Commission at that time read:

The action taken by the Commission will delay consideration of the annexation and incorporation proposals for about one year. During this time, the Commission will develop a boundary guideline map which identifies 'ideal' boundaries for existing and potential future boroughs throughout Alaska.

Accordingly, the Local Boundary Commission has directed staff to recommend model borough boundaries from among various potential options for the configuration of borough government in central Southeast Alaska. Examination of the CBJ "ideal boundaries" is being undertaken within the parameters of the broader statewide model boundary map project.

H. Background on Borough Government

Article X, Section 3, of Alaska's Constitution requires that:

The entire State shall be divided into boroughs, organized or unorganized. They shall be established in a manner and according to stan-

JUNEAU ANNEXATION/MODEL BOUNDARIES

ards provided by law. The standards shall include population, geography, economy, transportation, and other factors. Each borough shall embrace an area and population with common interests to the maximum degree possible.

Alaska's First State Legislature made a number of attempts to divide the State into boroughs in order to implement Article X, Section 3 of the Constitution. One measure would have initially divided the state into 24 unorganized boroughs. Another proposal would have created 14 organized boroughs, but left "pioneer areas" of Alaska outside of organized boroughs until they developed a tax base. Altogether, at least five different measures were introduced. While all of these proposals received serious consideration, none were adopted.

The 1961 legislature enacted a law simply placing the entire state -- all 586,412 square miles of lands and 78,125 square miles of tidelands and submerged lands -- into a single unorganized borough. Clearly, this act failed to 'divide the state into boroughs according to standards so that each borough embraced an area and population with common interests to the maximum degree possible' as the Constitution requires. However, by the same act, the legislature established Alaska's first statutes creating a process for formation of organized boroughs through local action.

Any belief on the part of the legislature that residents of the state would take the initiative to divide Alaska into organized and unorganized boroughs was dashed over the next two years. By 1963, only 1 borough had incorporated -- the Bristol Bay Borough encompassing only 873 square miles (one tenth of one percent of the state).

The 1963 legislature enacted a law mandating that organized boroughs be formed in eight regions. These were Juneau, Ketchikan, Sitka, Kodiak, Kenai, Anchorage, Mat-Su and Fairbanks. In doing so, the legislature expressed the intent that:

no area incorporated as an organized borough shall be deprived of state services, revenues, or assistance or be otherwise penalized because of incorporation.

In 1968, the State withheld funding from the Haines Independent School district, forcing the creation of the Haines Borough. After 1968, pressure from the State to form boroughs ceased to exist. Oil was discovered at Prudhoe Bay in quantities sufficient to eliminate the need for new revenues. In 1972, the North Slope Borough was formed.

The flood of new wealth from Prudhoe Bay allowed lawmakers and local residents

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to maintain the status quo with respect to boroughs through the mid-1980's. By 1986, however, Alaska's oil revenues had begun to nose dive.

The continued decline of oil revenues has brought about an unprecedented level of interest in the extension of borough government (through both annexation and incorporation). Boroughs which were formed under the Mandatory Borough Act of 1963 with the false promise of indemnity regarding State services and revenues began to seek new tax bases to make up further cuts in State support. In addition, previously unorganized areas sought to incorporate in order to offset cuts in State funding which they too were experiencing.

In the past four years, the Local Boundary Commission has received 11 petitions for the formation of new boroughs or for the alteration of boundaries of existing organized boroughs. In these four years, the Commission has approved the extension of organized borough government through incorporation or annexation of more than 100,000 square miles.

However, the 1961 law placing all "areas of the state which are not within the boundaries of an organized borough" into a single unorganized borough remains on the books. As such, Alaska's single unorganized borough currently encompasses nearly two-thirds of the state.

Under this law, all of the Mansfield Peninsula, Glass Peninsula, Horse Island, Colt Island, Windham Bay and Hobart Bay are included in the same borough (the unorganized borough) as Diomede, Bethel, Dillingham, Glennallen, Attu and Metlakatla. Such a diverse group of interests as represented by these communities can hardly be said to meet the constitutional requirements for setting borough boundaries.

The failure to properly divide Alaska into organized and unorganized boroughs in the more than three decades since statehood has created a number of problems. Almost without exception, every proposal to form an organized borough or to change the boundaries of an existing borough has generated intense regional conflicts. Typically, these conflicts end up in long and drawn out legal battles which drain financial and human resources of the affected regions. In fact, every borough incorporation and boundary change over the past 22 years has resulted in a legal challenge.

Ongoing economic and social developments virtually guarantee that the pressure to organize new areas of Alaska will continue to grow. Foremost among these is the certainty of further declines in State revenues. In addition, the upcoming reapportionment of the state legislature (which will be in place for the 1992 elections) will

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shift more political power to areas already organized. This, in turn, may bring about further legislative mandates concerning borough formation.

It is the desire and hope of the Local Boundary Commission that the type of conflict which has characterized the extension of borough government in the first three decades of statehood might be avoided or at least greatly diminished. In an effort to achieve this goal, the Commission is undertaking the "ideal" borough boundary study.

In effect, the Commission wishes to accomplish, for planning purposes, what the constitution (ratified by the voters of Alaska in 1956) requires.

If nothing more, the model boundary study being conducted by the Commission provides communities and others the opportunity to better plan for the prospect of organized borough government.

The following questions are among those which will be addressed during the course of the Commission's consideration of the CBJ annexation petition.

What are the "ideal" boundaries of the CBJ. That is, do the Greens Creek Mine, Funter Bay, the Mansfield Peninsula, the Glass Peninsula, Horse Island, Colt Island, Windham Bay and Hobart Bay have greater links to the Juneau region than they do to other existing or potential future organized boroughs?

If these areas do have greater ties to the Juneau region, should they be annexed to the City and Borough of Juneau at this time? If not, why not?

JUNEAU ANNEXATION/MODEL BOUNDARIES

SECTION II BACKGROUND OF PROCEEDINGS

A. City and Borough of Juneau Annexation Proposal

On June 1, 1989 the City and Borough of Juneau (CBJ) submitted a petition to annex approximately 140 square miles, including a portion of Admiralty Island and adjacent waters. The essentially unpopulated area includes the Greens Creek mine, with a taxable value estimated by the State Assessor's office at \$62 million.

If the annexation is ultimately approved as submitted, the following consequences are anticipated:

The area within the boundaries of the CBJ would increase about 4.5% and the value of taxable property within the CBJ would increase by approximately 5.3%.

No additional residents would be served by the borough.

Revenues of the CBJ would grow. Annual property and sales tax revenues of the CBJ would increase by about \$336,000 and \$150,000, respectively. In a little over two years, however, State funding for Juneau schools under the education foundation formula would decline by about \$248,000 as a consequence of the annexation. Over the long term, the net annual increase in revenues to the CBJ would amount to an estimated \$238,000.

Due to a restriction in the City and Borough of Juneau's sales tax code, the CBJ does not impose sales tax on the sale of equipment and supplies to be delivered to the mine (or other developments outside its municipal boundaries). The prospective sales taxes and revenues which would be derived from property taxes on the mine development subsequent to annexation constitute a notable financial incentive for annexation. These revenues, however, would be offset somewhat by a reduction in State funding under the education foundation program.

AS 14.17.025 requires that the CBJ contribute at least "the equivalent of a four mill tax levy on the full and true value of taxable real and personal property in the district as of January 1 of the second preceding fiscal year . . .". The required contribution is deducted from the level of education funding provided by the State. If the \$62,000,000 Greens Creek mine were annexed into the CBJ in March, 1991 (the earliest possible date), funding for the CBJ schools would decrease by \$248,000 beginning in FY 94.

JUNEAU ANNEXATION/MODEL BOUNDARIES

In summary, for FY 91 through FY 93, the CBJ revenues would increase by an estimated \$486,000 on an annual basis (using current data). Beginning in FY 94, however, the figure would drop to an estimated \$238,000 annually.

The expansion of the boundaries of the CBJ to the "ideal" boundaries suggested in this report would approximately double the revenues received by the CBJ under the National Forest Receipts (NFR) program. In the current year, the CBJ received \$498,750 in funding from that program. Thus, based on funding in the current fiscal year, the larger boundaries would mean a revenue increase of nearly \$985,000 annually, until FY 94 when the figure would drop to approximately \$737,000. However, it should be stressed that funding under National Forests Receipts program may fluctuate widely based upon economic activity in the Tongass National Forest.

The annexation would not increase the CBJ's receipts under the federal payments in lieu of taxes program (PL 97-258). Payments under that program are limited by population and other factors. The population within the present boundaries of the CBJ and the areas under consideration for annexation are such that the CBJ's program entitlement would remain unchanged as a result of any annexation.

The petitioner argues that since the mine and related economic activity increases demand upon all CBJ service delivery mechanisms, commensurate enhancement of its tax base through annexation of the Greens Creek Mine is both appropriate and necessary.

Development and submission of the CBJ petition appears to have been at least partially motivated by expressions of interest in borough formation on the part of municipal officials of the Cities of Angoon and Hoonah. Examination of the feasibility of establishing a 'Chatham' borough encompassing the Greens Creek Mine had been underway since February, 1988. Ultimately, although both the Hoonah and Angoon City Councils independently expressed intent to promote development of petitions for borough incorporation of the area encompassing the Greens Creek Mine, no competing Chatham Borough incorporation petition was lodged.

(To ensure concurrent consideration of a borough incorporation petition with a competing annexation or incorporation petition, the competing proposal must be submitted within 150 days of the date of the original petition filing. In this instance, the deadline to achieve competing status would have been 10/28/89.)

Obviously, the potential for submission of a competing petition concerned the CBJ, since it was shouldering the burden of additional demand for services as a consequence of the Greens Creek Mine swelling the resident Juneau workforce.

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B. Proceedings to Date on the CBJ Annexation Petition

On May 25, 1989, the Assembly of the CBJ adopted Resolution No. 1382 authorizing the submission of the annexation petition. On June 1, 1989, the Department received the petition. Following its review, the Department notified the petitioner's representative on July 7, 1989 that the form and content of the petition were found to be in substantial compliance with applicable laws and regulations. Notice of filing of the petition was published in the Juneau Empire, the Petersburg Pilot, the Sitka Sentinel and the Wrangell Sentinel. Notice was published in each of these newspapers on August 4, 11, and 18, 1989. In addition, the Department sent a copy of the notice of filing to 162 potentially interested parties and submitted the notice of filing for publication in the Alaska Administrative Journal.

On April 9, 1990 the first draft of this report on the CBJ annexation petition and 'model boundaries' for adjacent regions was released. The deadline for comments relating to the draft was initially May 17, allowing five weeks for public review. This period was extended, however, to allow the City and Borough of Juneau Assembly further opportunity to evaluate the DCRA draft recommendation and react to it. On May 7, 1990 LBC staff met with the CBJ assembly at a regularly scheduled Assembly meeting. Residents of the Funter Bay and other interested parties also addressed the CBJ Assembly at the meeting.

C. Future Proceedings

This report and recommendation is scheduled for release no later than June 22, 1990. The initial hearing by the LBC has been scheduled for July 13, 1990 at the following location:

JUNEAU MUNICIPAL ASSEMBLY CHAMBERS
155 SOUTH SEWARD STREET

An effort will be made to connect the following sites to the hearing via teleconference. However, if for any reason one or more of these sites is not connected to the teleconference, the hearing may proceed as scheduled.

ANGOON - CITY HALL
PETERSBURG - CITY HALL
HOONAH - COMMUNITY EDUCATION OFFICE, HOONAH SCHOOL
KAKE - CITY HALL (tentative, contact City Hall)

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The Commission may conduct additional hearings, if it deems them necessary. Even though the LBC legally has 90 days following a hearing in which to make a decision, it has indicated that it plans to make a decision on the CBJ annexation request by August, 1990.

D. Procedures for Annexation

State law (AS 29.06.040 and 19 AAC 10.450 - 19 AAC 10.790) outlines the processes by which municipal boundaries may be altered. Five procedures are available for annexation of contiguous territory to boroughs. These are as follows.

Local Action / Election - If approved by the LBC, an annexation proposed under the election process is placed before the voters. Only registered voters residing in the area proposed for annexation vote on the matter. Owners of property within the area proposed for annexation who are not residents of the area are not entitled to vote. Further, individuals residing within the existing boundaries of the borough are not permitted to vote on the matter. Annexation is effected by majority approval of those voting on the proposal [AS\29.06.040(c)(1)].

Local Action / Municipally Owned Property - A municipality may annex contiguous property which it owns by simply adopting an ordinance and gaining LBC approval [AS\29.06.040(c)(2)].

Local Action / 100% of Voters and Property Owners - If all of the individuals who own property (including non-residents) and all of the registered voters (including those who do not own property) residing in an area petition the municipal government for annexation, that municipality may initiate formal annexation procedures through the adoption of an ordinance. Again, the annexation must be approved by the Local Boundary Commission [AS\29.06.040(c)(3)].

Step Annexation - This process (which has seldom, if ever, been used) is intended where services are to be gradually extended to the annexed area over a period not to exceed five years [AS\44.47.567(b)(2)]. Under this process, the LBC first approves an annexation petition. It is then submitted to the voters of the area proposed for annexation. If passed by a majority of those casting ballots, the proposal must then be submitted to the state legislature during the first 10 days of a regular session. If a majority of the members of both houses of the legislature do not reject the proposal within 45 days of its submission, the annexation takes effect.

Legislative Review - Under this method, the Commission may submit any recommended boundary change to the state legislature. Recommendations may be submitted only during the first 10 days of a regular session. If a majority of the

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members of both houses of the legislature do not reject the proposal within 45 days of its submission, the annexation takes effect [Section 10, Article 12 of the Alaska Constitution; AS 29.06.040(b)].

E. Legislative Review Process

The CBJ has proposed the legislative review method for annexation. This process is summarized as follows:

1. A petition with supporting brief is submitted to DCRA.
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 accepted, public notice of the filing of the petition is given.
4. The Department issues a draft report and recommendation on the proposed annexation for public review. A minimum of 4 weeks is allowed for public comment.
5. The Department issues its final report and recommendation to the Commission on the proposed annexation. The report is released at least three weeks prior to the hearing to be held on the proposed annexation by the Commission.
6. Public notice of the hearing before the Commission is provided at least 30 days prior to the date of the hearing.
7. The LBC conducts a hearing in or near the territory proposed for annexation. At least two members of the Commission must be present.
8. Within 90 days of the public hearing, the LBC renders a decision to: a) accept the petition as presented, b) amend the boundaries and/or modify the process proposed for annexation or c) reject the petition.
9. Following its decision, the Commission indicates the basis for its action in a written statement. Any individual may file a request for reconsideration within 20 days of the approval of

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the statement of decision (see 19 AAC 10.870). The Commission's decision may be appealed to the Superior Court.

10. If the LBC approves a legislative review petition, the Commission must submit a recommendation for the annexation to the legislature within ten days of the beginning of the next regular legislative session.
11. If not specifically rejected by a majority of the members of both the House and Senate within 45 days of submission, the annexation is approved.
12. If the annexation is approved by the legislature, the municipality must clear the boundary change with the U.S. Department of Justice under the provisions of the Federal Voting Rights Act. This must be done before municipal voting rights may be properly extended to the voters in the annexed area.

F. Examination of the Process Proposed for Annexation

19 AAC 10.600 allows the LBC to consider all methods of annexation and to utilize the most appropriate for any particular petition. Of the five alternative procedures for annexation discussed in previously, three may be ruled out as unavailable or inappropriate in the current instance. These are:

Annexation by Ordinance of Municipally Owned Property - This process is unavailable since the CBJ does not own all of the territory proposed for annexation.

Annexation by Ordinance Following Petition from 100% of Voters and Property Owners - This process is not available because all of the property owners and resident registered voters in the area did not petition the City and Borough of Juneau for annexation.

Step Annexation - This process is reserved for annexations which anticipate gradual extension of those municipal services funded with sales and/or property taxes (i.e. "full municipal services") to the area over a period not greater than five years. The City and Borough of Juneau proposes the extension of "full municipal services" immediately upon annexation. Therefore, this process is inappropriate.

The two remaining methods of annexation are the Local Election process and the Legislative Review process. It appears that the principal reason CBJ officials chose to use the legislative review process was because of the lack of resident voters in the

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area originally proposed for annexation.

Further, the legislative review process was designed to remove annexation decisions from the parochial political arena when public opinion in an area proposed for annexation could block an otherwise justified and appropriate boundary change.

G. Criteria for Annexation of Contiguous Territory to a Borough

State laws establish criteria to be applied in judging the merits of any proposal for the annexation of territory to a borough. The law requires:

That the annexing borough's willingness and ability to serve the area proposed for annexation must be established.

That one or more of eight other basic standards for annexation be met in order for a proposed boundary change to be endorsed by the Local Boundary Commission.

That the post-annexation boundaries of the borough also meet the standards for borough incorporation.

H. Willingness and Ability to Serve the Areas

To approve all or part of the subject annexation, the LBC must determine with respect to the approved area that:

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. (19 AAC 10.200)

I. Other Standards for Annexation

As noted previously, in addition to determining that the City and Borough of Juneau is able to serve the areas proposed for annexation, the Commission must be satisfied that the territory proposed for annexation meets one or more of the following eight standards to the extent that annexation is otherwise warranted. (19 AAC 10.190)

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1. The contiguous territory is totally surrounded by the 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 CBJ can provide more efficiently than another municipality of the state.
4. There is a reasonable likelihood that future growth and development will occur within the territory and that annexation of the territory will enable the CBJ to plan for and control that development.
5. The health, welfare or safety of borough residents is endangered by conditions existing or developing in the territory and annexation will enable the borough to remove or relieve those conditions.
6. The extension into the territory of borough services or facilities is necessary to enable the CBJ to provide adequate service to its 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 benefit of borough government without commensurate property tax contributions, whether borough services are rendered or received inside or outside the borough.
8. The annexation is otherwise necessary to accomplish a valid public purpose.

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SECTION III EXAMINATION OF PROPOSED JUNEAU ANNEXATION

In order to approve the annexation petition, the Commission must not only be satisfied that the petition meets at least one of the eight standards for borough incorporation, but must also determine that the borough is willing and able to extend services to the annexed area.

The petitioner contends that the post-annexation boundaries would satisfy all standards for borough incorporation and four of the eight annexation standards. After review and examination of the issues evident in the proposed boundary change, the Department concurs with the petitioner with respect to all but one of the annexation standards. The standards which the petitioner asserts are met, and the extent to which DCRA agrees or disagrees, are identified and discussed as follows.

A. Application of Borough Annexation Standards

1. Annexation Standard [19 AAC 10.190(a)(3)]: The area is in need of municipal services which the CBJ can provide more efficiently than another municipality or the state.

The CBJ is in a position to serve this area more efficiently than another municipality or the state. This conclusion is based upon: 1) the area's proximity to the CBJ; and 2) the services available from the CBJ.

Based upon the petition of the CBJ and discussions with municipal officials, it is understood that the following direct services would be available to the area proposed for annexation as part of current general areawide services:

- emergency police services (offered in a limited capacity and only in emergencies);
- search and rescue;
- emergency medical services;
- planning, zoning and coastal management;
- building inspection.

Services located within the current boundaries of the CBJ and available to property owners in the annexed area would include:

- the Juneau International Airport;
- the Juneau hospital;
- Juneau harbor facilities;

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- social services;
- cemeteries;
- libraries;
- convention facilities;
- museums; and
- administration (Manager, Attorney, Finance)

It is expected that these same services would be available to the area suggested in this report for possible expansion of the CBJ boundaries beyond the 140 square miles requested by the CBJ. Additional services (such as fire protection) could be added at the request of taxpayers through the formation of a service area.

Legally, the CBJ would also become responsible for the delivery of public education in the newly annexed area. There are no schools within the 140 square miles proposed for annexation by the CBJ. However, there is one school which currently exists in Hobart Bay (within the suggested "ideal" boundaries). The Hobart Bay School has a student population of approximately 35 students. There is also reported to be one second grade student in Funter Bay who receives education through the State Centralized Correspondence Study program.

The Hobart Bay School, while a part of the Chatham School District, is actually operated by the Southeast Island School District. Such arrangements are allowed by AS 14.14.110 which states that "when necessary to provide more efficient or more economical educational services, a district may cooperate or the department (of education) may require a district to cooperate with other districts . . . in providing educational services". Thus, there is no reason why this arrangement could not continue, if the Hobart Bay School were annexed to the CBJ.

According to the Superintendent of the Chatham School District, the Hobart Bay School is expected to close after the 1990-1991 school year. The school was opened to provide education to the children of workers involved in logging activities in the Hobart Bay area. These logging activities are expected to be completed in the near future and the school will close at that time.

If Funter Bay were annexed, the lone student in that community would continue to receive instruction through the State correspondence program. The CBJ would not be required to provide a school in Funter Bay. Regulations of the Department of Education (04 AAC 05.040) require a district to "provide an elementary school in each community in which eight or more children are available to attend elementary school". These same regulations also require the district to "provide a secondary school or, if so requested by the local school committee, a partial secondary school program . . . in each community in the district in which there is one or more children

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available to attend a secondary school and there is, or there is required to be . . . an elementary school operated by the district."

The Juneau School District does not offer direct correspondence study. Thus, again, the Funter Bay student would be educated through the State Centralized Correspondence Study program. Currently, there are reported to be 25 students who live in the Juneau School District who receive instruction through the State Centralized Correspondence Study program.

The CBJ states in its brief in support of the annexation petition that it "... presently serves as the support center for Greens Creek and several other mining projects under exploration." The Department concurs with the CBJ assertion that no other community is better prepared to provide the support, transportation and commercial services needed by the mining industry in the region in general, and the Greens Creek project in particular.

The CBJ has devoted considerable time and effort to development of a mining ordinance to regulate mining activity within its boundaries. It appears more capable than any other government entity in the region to provide planning and other services which may be needed by mining and other commercial enterprises in the region.

Travel to the area proposed for annexation is via the CBJ. The major employer in the area proposed for annexation, the Greens Creek Mine, has its corporate offices in the CBJ. Miners commute to work daily by ferry from homes within the municipal boundaries of the CBJ.

2. Annexation Standard [19 AAC 10.190(a)(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. The Greens Creek project and related activity has spurred significant economic growth in the territory. According to the petitioner, the mine will operate for approximately twenty years. The CBJ's mining ordinance would enable the borough to appropriately regulate and control certain elements of the development.

3. Annexation Standard [19 AAC 10.190(a)(7)]: Residents or property owners within the territory receive or may reasonably be 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.

The petitioner asserts that this standard is met by virtue of the fact that Greens Creek

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Mine employees reside in the CBJ. Accordingly, education and other services are typically provided to the miners and their families by the CBJ. It is evident that the Greens Creek Mine and related population have an impact upon the CBJ.

In a letter dated May 22, 1990 (see attachment A), the CBJ contends;

"without the annexation, the citizens and businesses within the CBJ will be required to subsidize the public service costs which would otherwise have been paid for in part by property taxes on the mine. These costs will not be paid in full by the property taxes collected on the Greens Creek headquarters and the property of the Greens Creek employees located within the CBJ boundaries."

While the Department agrees with these statements, the typical application of the standard would be based upon actual extension of services to the mine site itself. The CBJ has given no indication that it currently provides direct services to the area proposed for annexation.

When applied in a manner consistent with precedent, the Department does not agree that this particular standard is reasonably met. Nonetheless, the Department believes that the arguments of the CBJ are legitimate. These arguments, however, would be more properly put forward for consideration under the public purpose standard discussed next.

4. Annexation Standard [19 AAC 10.190(a)(8)]: The annexation is otherwise necessary to accomplish a valid public purpose.

The CBJ implies in its brief that the area requires sheltering from other taxing jurisdictions when it states "The CBJ can assist in assuring that this development activity is safe, orderly, causes minimum adverse impacts, and is not subjected to unreasonable regulation or overly burdensome taxation." Apparently this reflects concern when the petition was drafted that a petition for formation of a Chatham Borough might be initiated with the assistance of or under the auspices of the City of Angoon.

While no such competing petition has been lodged, the CBJ's decidedly proprietary stance in issues related to the Greens Creek Mine does appear to be rather reasonably derived from the close and continuing relationship between the prosperity of the mine and the employment it brings and the CBJ economy. For example:

The administrative headquarters of the Greens Creek Mine is located in Juneau;

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Homes of mine workers are located in Juneau and they commute to their jobs at the mine.

Since the mine itself is located outside the CBJ's municipal boundaries, the CBJ receives no property tax revenue on the taxable value of the mine site. The petitioners argue that "The local government which provides the support services for the development and which experiences the impact from the development should have the best opportunity to acquire the [tax] revenues associated with the development."

The argument could apply to an equal, if not greater, extent to the other part-time residents and/or owners of property located in areas adjacent to the boundaries of the CBJ but not included in the petition for annexation. In the Department's belief, such areas include Funter Bay, Hawk Inlet, Horse Island and Colt Island, the Glass Peninsula, Windham Bay and Hobart Bay.

The social, cultural and economic ties of this portion of Southeast Alaska to the CBJ are extensive. Annexation of additional territory would more fully satisfy the constitutional instruction that a borough include "an area and population with common interests to the maximum degree possible" within the boundaries of the Borough (Alaska Constitution, Article X, Section 3).

The petitioner's brief also states that "This annexation proposal is an effort to conform the existing boundaries of the CBJ to actual development activity which directly affects the CBJ." To be fully consistent with this goal, the area proposed for annexation should be enlarged.

On this basis, the Department concludes that sufficient valid public purpose would be served as a consequence of the annexation to satisfy this standard. In addition, the standard could be more fully met if the area proposed for annexation were expanded.

B. Application of Borough Incorporation Standards

19 AAC 10.220 requires that:

"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 for borough incorporation.

Clearly, all of the following requirements of AS 29.05.031 would continue to be

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fulfilled by the CBJ subsequent to the proposed annexation.

1. The population within the expanded boundaries of the borough is interrelated and integrated as to its social, cultural and economic activities.

Annexation would not be significant in terms of bringing additional population into the CBJ, but would bring into the CBJ's boundaries an area which already has significant social, cultural and economic ties to Juneau.

2. The population within the expanded boundaries of the borough is large and stable enough to support borough government.

The greater Juneau area is one of the key metropolitan areas of Alaska. Its population is ample for purposes borough government.

3. The expanded boundaries of the CBJ would conform generally to natural geography and still include all areas necessary for full development of municipal services.

The proposed post-annexation boundaries would conform generally with natural geography, to the extent that this standard is typically met by other organized boroughs.

4. The economy of the expanded borough includes human and financial resources capable of providing municipal services.

Annexation of the area would permit the CBJ to increase its annual revenues. Much of the anticipated revenue would be derived from the Borough's areawide real and personal property tax. The current tax rate which would apply to the mine is 5.42 mills (note: most urban areas of the CBJ are currently taxed at about 13 mills). On the basis of the area's estimated taxable value, the 5.42 mill tax would generate approximately \$336,000 per year. The CBJ also estimates that \$150,000 in additional annual tax revenue would accrue to the CBJ since goods for the Greens Creek Mine would no longer be exempt from CBJ sales tax, as is currently the case.

Annexation of the mine, however, would cause the CBJ's funding from the state under the education foundation formula to decline by an estimated \$248,000 beginning in FY 94. Expansion of the boundaries to those suggested as 'ideal' boundaries in this report would offer potentially significant increases in revenues to the CBJ under the National Forest Receipts program. Program receipts would

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approximately double. In the current year, the CBJ received \$498,750 in program funds. Historically, however, NFR funding has fluctuated greatly from year to year.

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

The petitioner notes (brief, page 31):

The area to be annexed is no more distant or difficult to reach than many other areas of the CBJ which are not on the road system. Air and water access from the CBJ to the Greens Creek area is in place at this time. The use of a vessel by the mining company for daily commuting by workers indicates adequate proximity.

While owners of property in other, adjacent areas in the vicinity might argue that a lack of road access renders inclusion in CBJ boundaries inappropriate, in the context of the State of Alaska as a whole, the lack of road access prohibits neither the delivery of desired municipal services nor the exchange necessary to provide responsible municipal government.

The Department concludes that this standard would continue to be met, at least to the minimum degree required by Alaska law.

C. Other Considerations Regarding CBI Annexation

1. History of Existing CBI Boundaries

The Greater Juneau Borough was incorporated in 1963. Less than two years later, the Borough unsuccessfully proposed to annex approximately 2,657 square miles. The area proposed for annexation included all of Admiralty Island and a portion of the mainland lying south of the Borough.

The area proposed for annexation included the community of Angoon. It also encompassed other areas which are presently inhabited. These include Funter Bay, Hawk Inlet and Colt Island. Records are not available to indicate why the 1965 annexation proposal was never implemented.

In 1970, the Greater Juneau Borough, the City of Juneau and the City of Douglas unified to form the City and Borough of Juneau. The boundaries of the CBJ have never been extended beyond those of the former Greater Juneau Borough.

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The recent resurgence in mining activity in the region presents an array of both challenges and opportunities for municipalities in the region. While it presents an opportunity for the area's economy to become more diversified, demands upon government services ranging from education to emergency medical services can be expected to increase. Thus, impacts upon its service delivery mechanisms and the opportunity to broaden its tax base through annexation prompted CBJ policy makers to initiate the current annexation effort.

2. Model Boundaries

The Department believes that areas adjacent to the 140 square miles proposed for annexation appear to belong within the model boundaries of the City and Borough of Juneau. These include Funter Bay, Horse Island, Colt Island, the Glass Peninsula, Windham Bay and Hobart Bay.

Residents and property owners in these areas appear to have greater social, cultural and economic ties to Juneau than to a prospective Chatham Borough or any other region.

The Department's preliminary recommendation (issued April 9, 1990) concerning the model boundaries of the CBJ did not suggest inclusion of any of the mainland south of the current boundaries of the CBJ. However, in a letter dated May 22, the City-Borough Manager requested the inclusion of certain mainland areas to the south (see Appendix A). Specifically, the letter noted:

We also request changes in the ideal boundary map for Central Southeast Alaska. The ideal boundary map should be reviewed to determine whether the mainland section of the proposed Chatham Borough should be divided between a possible northern addition to the proposed Petersburg/Wrangell Borough and a possible southern addition to the CBJ. The mainland area immediately south of Juneau is more within the CBJ's area of responsibility than that of a potential new borough. A Juneau-based corporation, Goldbelt, conducts logging activities in Windham Bay and Hobart Bay and Juneau residents recreate in these areas. The CBJ already supplies emergency services in this area and several Juneau-based commercial operators transport people and goods to various location south of the ideal boundaries of the CBJ as proposed by DCRA.

The Department finds the rationale put forward by the CBJ City-Borough Manager to warrant the expansion of the recommended ideal boundaries as shown in Exhibit B.

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3. Impact Upon Financial Viability of Chatham Borough

Annexation of the Greens Creek Mine to the City and Borough of Juneau would significantly diminish the property tax base of a prospective Chatham Borough. The mine has an estimated value of \$62,000,000. That represents 48.3% of the estimated taxable value of a prospective borough encompassing Kake, Hoonah and Angoon.

While the relative value of the mine is significant in terms of a prospective Chatham Borough, its exclusion from that prospective borough may actually increase its viability. As discussed earlier, inclusion of the mine in the CBJ will increase its required local contribution to schools by \$248,000 — the same would hold true for a Chatham Borough.

The CBJ will more than offset the reduction in the loss of education funding through the levy of municipal property taxes. Unless a prospective Chatham Borough were willing to levy a property tax at least equal to 4 mills, inclusion of the mine would actually be a financial burden on the borough (an exception would exist if the borough would be willing to levy a severance tax).

Typically, property taxes are viewed by residents of sparsely populated rural boroughs as being among the least desirable means of raising local revenues. For example, none of the three most recent boroughs formed (all of which encompass rural, sparsely populated regions) levy property taxes.

Unless the property tax base of a borough is significant, property taxes are typically avoided because the tax is relatively difficult and expensive to collect. The property tax base of a prospective Chatham Borough encompassing Hoonah, Kake and Angoon would not be particularly strong. Including the Mine, the property tax base in the Chatham Borough would be slightly more than 75% of the average per capita tax base in all organized boroughs in Alaska. Without the Mine, the property tax base would be about 40% of the average per capita tax base in all organized boroughs.

With respect to a possible severance tax, based upon a written opinion of the State Attorney General's office, it is believed that a Chatham Borough could levy a severance tax on mines operating within its boundaries. However, no borough in the state currently levies such a tax. Any attempt to levy a severance tax on mines in a Chatham Borough would be expected to meet with considerable legal and political resistance. Thus reliance on such a tax may prove to be inappropriate.

Perhaps the greatest concern in terms of this annexation regarding the financial viability of a prospective Chatham Borough would be the inclusion of significant

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additional portions of the Tongass National Forest within the CBJ. Because, boroughs are entitled to National Forest Receipts strictly on the basis of the extent of National Forests within their boundaries, annexation of any additional forest lands to the CBJ will diminish potential program revenues for a prospective Chatham Borough.

As noted earlier, based on current levels of funding, the annexation to the CBJ of the 3,087 square miles suggested for inclusion within its 'model' boundaries would generate nearly \$500,000 in additional National Forest Receipts for the CBJ. If these National Forest properties were included within a Chatham Borough, the same would hold true for that government. \$500,000 represents the equivalent of a 7.5 mill property tax for the prospective Chatham Borough (based on value excluding the Greens Creek Mine). As noted earlier, it is important to recognize that revenues under the National Forest Receipts program can fluctuate widely from year to year.

This circumstance notwithstanding, the Department and the Commission agreed at the beginning of the 'model' boundaries study that boundaries should not be gerrymandered to ensure financial viability of a particular region. That is not to say that financial viability is not an important issue, but rather that it is an issue which should be considered independent of the boundary issue.

Therefore, because the Department believes that the Windham Bay and Hobart Bay areas are more closely linked to the CBJ, inclusion of these areas within the model boundaries of the CBJ is considered most appropriate.

SECTION IV
CONCLUSIONS

1. Regarding CBJ Annexation Petition

The CBJ's proposed annexation of the Greens Creek Mine satisfies all necessary standards for annexation. However, a central issue related to this annexation petition is whether the proposed post annexation CBJ boundaries include, to the extent warranted, all of the territory that is socially, culturally and economically interrelated to the Borough to the maximum degree possible.

2. Regarding Model CBJ Boundaries

The Department concludes that the ideal boundaries of the CBJ are more expansive than the area petitioned for annexation, even though it is evident that the model boundaries encompass the Greens Creek Mine. The ideal boundaries of the CBJ also encompass other adjacent areas, including the Mansfield Peninsula, the eastern half of Seymour Canal, Glass Peninsula, Horse Island, Colt Island, Windham Bay and Hobart Bay. The proposed boundary change should be expanded to include areas likely to receive CBJ services or to be heavily utilized and impacted by area residents.

3. While annexation of the Greens Creek Mine would diminish the tax base of a future Chatham Borough (but might not adversely affect its financial viability), the Greens Creek Mine has too many links with the CBJ to justify its inclusion in any other Borough.

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SECTION V RECOMMENDATIONS

The Department's position in these matters is presented as a series of recommendations for consideration by the Local Boundary Commission. It is important to keep in mind that the Department and the Commission are independent of each other. Ultimately, the decisions will be made by the Local Boundary Commission and, presumably, the Legislature. The Commission is under no obligation to accept the recommendation of the Department and the Legislature is under no obligation to accept the recommendation of the Commission.

A. Regarding CBJ Annexation

1. The Department recommends that the Local Boundary Commission make the annexation of the Greens Creek Mine contingent upon the inclusion of all areas found to be within the 'ideal' boundaries of the CBJ. In the Department's view, these include the eastern half of Seymour Canal, all of the Mansfield Peninsula, Glass Peninsula, Horse Island, Colt Island, Windham Bay and Hobart Bay. The area recommended for annexation by DCRA encompasses approximately 3,087 square miles. The suggested configuration of the territory recommended for annexation is reflected on the map in Exhibit B. A written description of the ideal boundaries is provided in Exhibit C.

The Department's rationale for recommending that the proposed annexation petition be expanded is based upon the following:

The 140 square mile area proposed for annexation by the CBJ is uninhabited. If approved as requested, the annexation would generate significant revenues for the CBJ, but would not create significant demands on the CBJ for delivery of services.

The annexation proposed by the CBJ is similar in many respects to one proposed by the Fairbanks North Star Borough a year earlier. Fairbanks had petitioned to annex pump station number 7 of the trans-Alaska oil pipeline. Like Juneau's proposal, this annexation would have generated significant revenues for the borough with no significant increase in the demand for services.

Although approved by the Local Boundary Commission, the Fairbanks annexation generated intense conflict (not only in the region, but statewide as well). This conflict spilled over into the legislature where the matter was debated for several days. Ultimately, the legislature — which has final say in such matters — rejected the Fairbanks annexation. In doing so, the legislature sent the message that

JUNEAU ANNEXATION/MODEL BOUNDARIES

boroughs should not be allowed to annex 'select' areas while ignoring 'less desirable' areas which should also be within their boundaries.

In response to concerns raised in the course of the Fairbanks annexation, the Commission determined that future requests for borough boundary changes should be examined with due consideration given to the affected region's "ideal" regional government boundaries.

Accordingly, as a matter of policy, the Department supports the Local Boundary Commission's model boundaries effort. In this spirit, examination of every petition for annexation of territory to existing boroughs is routinely evaluated in the light of model boundaries for the respective borough. The petitioner has identified ties between the Mansfield Peninsula and its residents with the CBJ. The Department contends that similar strong ties exist with the other areas suggested for inclusion in the CBJ.

Since the effort to expand the CBJ boundaries has been initiated, it would be irresponsible to not include all of the area appropriately within the extended boundaries. It would be particularly irresponsible if an effort to attempt the full and appropriate extension of CBJ boundaries were deferred because of political pressures imposed by purely parochial interests or recreational property owners wishing to avoid property taxes.

The Department's position with respect to the CBJ annexation proposal is consistent with its recommendation concerning the resubmitted Fairbanks annexation proposal. In the case of the pending Fairbanks petition, the Department recommended that the annexation of pump station number 7 now be permitted only if the annexation is expanded to take in an additional 4,558 square miles which are believed to be within the 'ideal' boundaries of the Fairbanks Borough. The Commission is scheduled to rule on the Fairbanks proposal on the same date as it conducts the hearing on the Juneau annexation proposal.

- 2. The Local Boundary Commission should approve an amended annexation petition on the condition that the CBJ Assembly adopt a resolution affirming its willingness and ability to extend areawide services to all of the territory encompassed by the expanded petition.**

As noted earlier, the Commission's regulations require that annexation should be rendered only after the LBC is satisfied that the CBJ has demonstrated that it is willing and able to extend municipal services to the annexed territory. In this instance, the Department maintains that the LBC should condition approval of the

JUNEAU ANNEXATION/MODEL BOUNDARIES

annexation petition on the submission of an assembly resolution pledging extension of borough services to all of the area determined by the Commission to be within the ideal boundaries of the City and Borough of Juneau.

In a letter dated May 22, the City-Borough Manager of the CBJ stated that:

The CBJ does not object to the establishment of broader boundaries if the LBC finds that this is in the best interests of the state, Juneau and the affected communities and residents.

While the letter was specifically authorized by the CBJ Assembly, a more formal and specific resolution concerning the matter would still be in order. Further action by the Assembly would presumably follow the decision of the Commission regarding these matters. Once the Commission acts, the Assembly will have a formal decision to consider regarding the 'ideal' boundaries of the City and Borough of Juneau.

The Department realizes that the recommendations in this report will certainly generate controversy. However, the recommendations relate to what is perceived to be the 'model' boundaries of the CBJ. Given the evidence of social, cultural and economic integration of the area recommended for annexation with the CBJ, the Department feels the present recommendations are appropriate. However, in the event the Commission accepts the recommendations, the Department also recognizes and respects the right of the CBJ Assembly to withdraw its annexation petition should the Assembly not wish to accept the larger area.

JUNEAU ANNEXATION/MODEL BOUNDARIES

EXHIBIT A

**CORRESPONDENCE CONCERNING THE CITY AND BOROUGH OF
JUNEAU PROPOSED ANNEXATION AND MODEL BOUNDARIES**

(SHOWN IN REVERSE CHRONOLOGICAL ORDER)

Alaska State Legislature



SENATOR JIM DUNCAN

P. O. Box V JUNEAU, ALASKA 99811-3100
(907) 465-4766

COMMITTEES:
FINANCE
VICE CHAIR -
HEALTH EDUCATION
& SOCIAL SERVICES
BUDGET & AUDIT
BANKING &
ECONOMIC
DEVELOPMENT

June 12, 1990

Mr. Dan Bockhorst, Supervisor
Grants and Local Boundary Commission
Division of Municipal and Regional Asst.
949 East 36th, Room 405
Anchorage, Alaska 99508

RECEIVED

JUN 14 1990

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

Dear Mr. Bockhorst:

This letter is to provide you with my recommendation on the matter of the proposed City and Borough of Juneau annexation of the Greens Creek Mine.

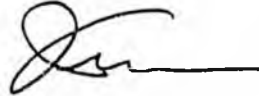
I have received a number of letters from individuals, predominantly with cabins in Funter Bay and other affected areas, who believe annexation of a larger area than the original proposal would be detrimental to their interests. After reviewing their concerns, I have to agree that they are legitimate.

I feel there are compelling reasons to annex only the Greens Creek Mine area. Juneau is the bedroom community for the Greens Creek Mine. We provide schools, roads, and other public services to employees of the mine. Greens Creek Mine receives the benefit of these services without paying property taxes on the mine itself, therefore the mine is not picking up the full social cost of its operations.

Conversely, the property owners in Funter Bay and other remote areas who own predominantly recreational cabins, feel that annexation of their property would be harmful. In actuality, remote recreational sites receive little or no benefit from organized municipalities. One of the reasons people chose to recreate or reside in remote areas is to be free of governmental interference and regulation. In fact, regulation by a municipality would defeat the need of many Alaskans to be free of government regulation in at least one area of their lives.

While it would be nice to be able to draw nice, straight lines on a map in designating all boroughs in Alaska, I do not feel in this case it would be beneficial to any of the parties concerned to do so. Therefore I recommend the Boundary Commission approve the City and Borough of Juneau's original request to annex only the Greens Creek Mine area. Your favorable action on this recommendation will be appreciated.

Sincerely,



Jim Duncan
Senator

cc: Sam & Helen Pekovich
Phillip & Carol Gray
Peter & Patti Jones
Phillip & Donna Emerson
James A. Doyle
Kevin Ritchie, City Manager, City & Borough of Juneau

TO: _____
 DEPT. A. B. Smith FAX # _____
 FROM: PH PHONE _____
 CO. ABC FAX # _____

NO OF
 PAGES
5

Philip J. Emerson
 3 Crab Cove
 Funter Bay, AK.
 99650-0140

14, 23, 1990

Mr. C.D. Bettisworth, Chair
 Local Boundary Commission
 130 Seward St.
 Juneau, AK. 99811

Dear Mr. Bettisworth,

My family and I live at Funter Bay which is on Mansfield Peninsula, the northern tip of Admiralty Island. In the last month my family and I have just become aware of serious potential changes to our subsistence lifestyle brought on by proposed City and Borough of Juneau annexation of our area due to pressure being exerted by the Local Boundary Commission.

The CBJ proposed an annex of the Greens Creek mining operation in Hawk Inlet and in return the LBC extended these boundaries to include Funter Bay. Due to the fact that the LBC did not inform the residents of Funter Bay of this change it has incurred a lot of time trying to acquire information, expense in travel costs to appear before the CBJ council meetings and stress incurred by the LBC's lack of concern for the residents and land owners of this area.

I have been trying to read all the information available to me at this time and am finding it quite difficult to understand. In the Model Boundaries Study (Chatham/Juneau, Dec. 1989) there is a question and answer section that states that the LBC "...will not create boroughs. It will not even promote or propose the formation of regional governments." And yet in the Aug., 1989 Chatham Region Borough Feasibility Study there is a statement of borough government by the LBC (attachment C pg. 59) that recommends to the legislature, "4) to provide for the formation of boroughs in all parts of the state, coupled with a mechanism to ensure that all boroughs created in this fashion are financially viable." How can the LBC tell the voting public one thing and then propose just the opposite to the lawmakers?

I cannot see that putting all the small communities in Southeast in "ideal" boundaries is going to help the state's money problems or the problems of each totally separate community. The State of Alaska created a problem for themselves during the big money days of the oil pipeline by supplying too much to too many and now must put the burden back on the people. That is fine, if the people want it they should expect to pay for it; but don't do it by throwing together communities that do not, "embrace an area and population with common interests to the maximum degree possible." On page 70 of the Chatham Region Borough Feasi-

bility Study there is a statement on the position of the Local Government Committee that says, "although voluntary incorporation was preferable, organized boroughs should be created without approval in the area if considered necessary by the state". May I quote Article 1 section 2 of the state constitution. "All political power is inherent in the people. All government originates with the people, is founded on their will only, and is instituted solely for the good of the people as a whole."

Every letter from the smaller communities I have seen in all your studies has the same reply, no one wants to be part of any organized borough and I don't think it is right for the State of Alaska to force any community into a borough because the LBC feels they have to draw lines on a map and, "square the corners". The State should take the initiative from these findings by the LBC and let each community in southeast take care of itself with its own tax base.

I now would like to refer to the "Report and Recommendation to the Alaska Local Boundary Commission concerning the Application of Borough Incorporation Standards." Pg. 10 of this report dated April 9, 1990.

I am enclosing a letter I wrote to the Mayor of Juneau that covers the first point. To the best of my knowledge this letter was not read at the assembly meeting and I have received no reply. Perhaps you can tell me the social, cultural and economic ties that make Funter Bay different than Hoonah, Pelican, Elfin Cove or Gustavus. If I am so close to Juneau why does it take me three and a half hours to run my boat to Auke Bay or seven hours to Juneau proper? Funter Bay has once a week mail service; during the winter this can be extended to a month or more due to weather. To charter a plane and attend a CBJ borough meeting, stay in a motel, rent a car, eat meals etc. can cost \$400 to \$500; is this accessibility to local government? Taking Hoonah as an example in comparison, it is connected directly to Juneau by State ferry service three times a week, (summer) and numerous daily scheduled flights throughout the year. Many of their business and social activities are Juneau centered. They have a Juneau FM radio station repeater. All of these circumstances seem to show greater "cultural, social, and economic ties" to Juneau than the community of Funter Bay ever had.

I have a hard time understanding point #2. It sounds like an invading country justifying its actions. The CBJ could annex the whole unorganized borough and say that they are large and stable enough to support borough government. Point #3 talks about natural geography. I guess all one has to do is look at the map with the lines the LBC has drawn to see this. First of all Admiralty is an island, totally separated from Juneau; the proposed LBC annexation only includes a small section of this island and with a boundary line that follows no natural geography. At the CBJ council meeting of May 7th, Mr. Gene Kane of the Department of


Community and Regional Affairs stated to the council that the Mansfield Peninsula was being included in the selection to , "square the corners" of the CBJ boundary. I would like to know what happened to the square corners on the southern boundaries of the IBC's enlarged annex lines?

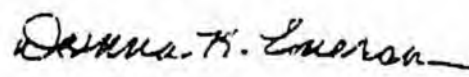
Point #4 and some of #3 has to do with supplying municipal services. Can you tell me how the CBJ is going to supply this area with services except for taxes and enforcement of borough laws? For 18 years I have supplied my family with every amenity we need and we do not need borough services that cannot be supplied.

On the top of page 10 there is the quote about the expanded area conforming "substantially" to these standards. Has any one from any of your offices or organization been to Hunter Bay to come to all these conclusions? In point #5 it states that Hunter Bay is no more distant or difficult to reach than many other areas of the CBJ; if this is true you should be able to come out here and talk to us on a regular basis. Do other areas of the borough that are only accessible by air or water have a resident population?

State law says, "The entire State shall be divided into boroughs, organized or unorganized." Hunter Bay is part of the unorganized borough and wishes to remain in it. We are no more "related" to Juneau than any of the other outlying communities, I would even say less so than many of them, and I cannot see that any of the factors used in setting boundaries are fulfilled by the annexation of Hunter Bay by any borough. On page 10 once again it says, "Annexation would not be significant in terms of bringing additional population into the CBJ,...". I would like to believe that the individuals of this State are significant.

Respectfully yours,


Philip K. Emerson


Donna K. Emerson

cc: Ms. Jo Anderson, Mr. Lamar Cotten, Ms. Shelly Dugan,
Mr. Guy Martin, Local Boundary Commissioners;
Senator Richard Eliason
Representative Peter Goli

ALASKA-DANO MINES COMPANY

P.O. BOX 210609
ANCHORAGE, ALASKA 99521

May 25, 1990

Local Boundary Commission Component
Department of Community & Regional Affairs
949 E. 36th Ave. Room 405
Anchorage, Alaska 99508

REC-...
Mr.
Dept. of Comm. & Reg. Affairs
Div. of Municipal & Reg. Asst.

Dear Sirs:

As the undersigned stated before the City and Borough of Juneau Assembly meeting of May 7, 1990 the above Company, as an owner of property fronting on the south shore of Funter Bay, Mansfield Peninsula, Admiralty Island, objects and protests to the annexation of the Mansfield Peninsula by the CBJ as proposed by the Department at this time on the following grounds.

The property of the Company gives promise of containing one or more deposits of commercial ore which promise has not yet been proven. The Company needs, and is trying hard to obtain, exploration by an entity willing to invest substantial sums, way beyond the limited resources of the Company, to conduct that exploration.

Interesting such an entity in the property will be more difficult, and possibly unlikely, should the area be annexed for a number of reasons. The mandatory borough functions alone would mean at best a tax, even that of a special service district at a mill rate of between 4 and 6 mills, which would soon exhaust the limited financial resources of the Company, or increase the costs of such exploration and thus decrease the interest of such an entity.

Perhaps more important is the realization that annexation would mean planning and zoning in a distant and sparsely settled area under ordinances developed for urban area concerns which could defeat mineral exploration. And while a limited service area could be devised in which other ordinances would not apply there would be concerns that such an accomodation could be unilaterally changed at any time. It is apparent that some segments of the mining industry, possibly one which might be willing to do that needed exploration, do not regard the CBJ mining ordinance as one that encourages mining exploration, as it was ordained to fit the needs of an urban area, not that of Funter Bay.

So there exists a situation whereby annexation at this

time would hinder and possibly defeat mineral exploration which if accomplished could in the future result in values to the State and to CBJ in the form of mining and corporate taxes, property tax, sales tax, user fees and other revenues.

In the meantime CBJ does obtain revenues from the Mansfield without the cost of extending its governmental services to that area. In the past, and in the present, activities on the Mansfield has generated business for Juneau merchants and vendors of services all of which leads to taxable property and transactions. That business has been sought as valuable. Almost all of that activity has been extended to that area by residents of Juneau who are taxpayers in CBJ. The Company pays sales taxes on purchases and services rendered to it by residents of CBJ.

The people of the Mansfield and the activities conducted in it have chiefly relied on Juneau and CBJ facilities. While that establishes a cordial relationship it does not of itself justify annexation at this time, as there appears not only no need by CBJ services, but instead an aversion to the enforced rendition of them.

This relationship does however justify the concept of eventual annexation when circumstances change by reason of mining or other development leading to more settlement and a need for municipal services, and supports the approval of the model boundary proposed by the Department. This economic and cultural relationship should prevent the annexation of the area by any other city or borough.

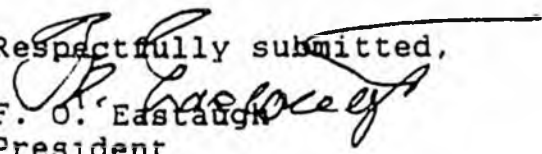
In view of the present lack of need for services which would be rendered to the area as a result of annexation, annexation should be deferred. And should the Company property be developed into a producing mine, the CBJ would be the economic beneficiary of such activity which could well justify annexation at some time in the future.

Such deferral would not run counter to the Constitutional mandate that all government powers shall be vested in boroughs and cities, nor the consequent State aim of eventual organization of the unorganized borough, considering that over 64% of the State is still in the unorganized borough.

The Company therefore proposes and requests that annexation of the Mansfield Peninsula be deferred until some future time, and that the model CBJ boundary proposed

by the Department be approved in concept, subject only to changes that might be warranted by conditions existing at the time of annexation.

Respectfully submitted,


F. O. Eastaugh
President

cc: Hand delivered to
Mr. Peter Freer,
Local Boundary Commission
Juneau, AK 99811-2110
Mr. Kevin Ritchie
City & Borough of Juneau
155 S. Seward, Juneau 99801
Mailed to:
Members of the Local Boundary Commission

CRRCBJ



CITY/BOROUGH OF JUNEAU
★ **ALASKA'S CAPITAL CITY**

RECEIVED

MAY 25 1990

May 22, 1990

Div. of Comm. & P.
Div. of Municipal

Mr. Dan Bockhorst
Grants and Local Boundary Commission Supervisor
Division of Municipal and Regional Assistance
Department of Community and Regional Affairs
949 East 36th, Room 405
Anchorage, Alaska 99508

Re: Draft Report to LBC on CBJ Annexation Petition
and Ideal Boundary Study

Dear Mr. Bockhorst:

The City and Borough of Juneau (CBJ) is pleased to have this opportunity to comment on the Department of Community and Regional Affairs' (DCRA) draft report to the Local Boundary Commission (LBC) on the CBJ's annexation petition and the "ideal boundaries" for the central portion of Southeast Alaska. The CBJ's comments are as follows:

1. The CBJ did not attempt to annex all of the Mansfield Peninsula or any of the Glass Peninsula in its annexation petition submitted to the LBC. The annexation petition was intended to solve the problem of having a large number of CBJ citizens who work beyond the CBJ boundaries. Additional annexation is beyond the scope of the CBJ's present petition.
2. The CBJ does not object to the establishment of broader boundaries if the LBC finds that this is in the best interests of the state, Juneau, and the affected communities and residents. However, considerable public notice and discussion should take place before final boundaries are drawn. The standards for annexation discussed in the CBJ's petition may or may not be met with respect to those areas which are being suggested by DCRA as appropriate for annexation because they are within the recommended "ideal boundaries" of the CBJ.
3. The CBJ received no objections from property owners in the area proposed for annexation in the CBJ's petition. However, with respect to the expanded annexation boundaries proposed by DCRA, the CBJ has received nothing but objections from property owners within the proposed expanded

boundary area. These objections have been voiced most strongly by the residents of Funter Bay.

4. The CBJ is very concerned with the apparent lack of notice of the ideal boundary study given to property owners in the area of the ideal CBJ boundaries as proposed by DCRA. The testimony and written comments received by the CBJ from these property owners has uniformly reflected a lack of notice from DCRA as to the existence or nature of the study. The CBJ strongly urges DCRA to give notice to all property owners, including Forest Service lease holders, within DCRA's proposed ideal CBJ boundaries of the upcoming public hearings on the CBJ's annexation petition and DCRA's report and recommendations.
5. The draft report states that the CBJ's petition does not meet the annexation standard set forth in 19 AAC 10.190(a)(7). That standard reads: "Residents or property owners within the territory receive or may reasonably be 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."

The area proposed for annexation will be much like the Taku River, Lucky Me, Shelter Island, and Taku Harbor areas; all of these areas are already within the CBJ. These areas receive all areawide services although the number of full-time residents in these areas is low. Many of the property owners in these areas own their property for recreation purposes, and also own urban property within the CBJ for residential purposes. The CBJ also collects property taxes from their place of work if it is privately owned.

Greens Creek is the only private business which employs a substantial number of CBJ residents that pay property taxes on only a small portion of its facilities, i.e., its corporation headquarters in Juneau. However, Greens Creek employees generate as much public service cost as 200 employees of a mine development located within the boundaries of the CBJ. Thus, without the annexation, the citizens and businesses within the CBJ will be required to subsidize the public service costs which would otherwise have been paid for in part by property taxes on the mine. These costs will not be paid in full by the property taxes collected on the Greens Creek headquarters and the property of the Greens Creek employees located within the CBJ boundaries. The property owner within the territory proposed for annexation (Greens Creek) is receiving the benefit of CBJ services without commensurate property tax contributions. Therefore, annexation standard 19 AAC 10.190(a)(7) is met.

5/22/90

LISC Component
Dept of Community + Regional Affairs
949 E. 36th Ave, Room 405
Anchorage AK 99508

RECEIVED

MAY 24 1990

Dept. of Comm. & Reg. Affairs
Div. of Municipal & Gen. Affs

DEAR SIRs,

Could you please send me your draft report on annexation for the City + Borough of Juneau. Could you please include a copy of all the guide-lines, criteria, etc. necessary to annex lands by a Borough and any legal or constitutional information pertinent to expanding Borough Boundaries.

We look forward to meeting you in Juneau on July 12th for your hearing on annexation.

Sincerely,



Peter D. Jones
PO Box 1064
Juneau, AK

May 21, 1990

Dept. of Community and Regional Affairs
155 S. Seward Street
Juneau AK 99801
Murray Walsh
Bruce Botelho
Rosalee Walker
Rosie Peterson
Dennis Egan
John McKinnon
Caren Robinson
McKie Campbell
Errol Champion
George Davidson

Dear Assemblymen:

I would like to protest the annexation of Admiralty Island cabin sites. The cabin we are concerned about is located in the Seymor Canal area. This annexation will not benefit anybody with cabin sites in the area up for review. I would like to address the assembly members comment in the newspaper about nobody protesting the annexation thus far, since it was only last week I first heard about this new ordinance or I would have protested sooner. There ought to be a better way of announcing these ordinances that come up for review.

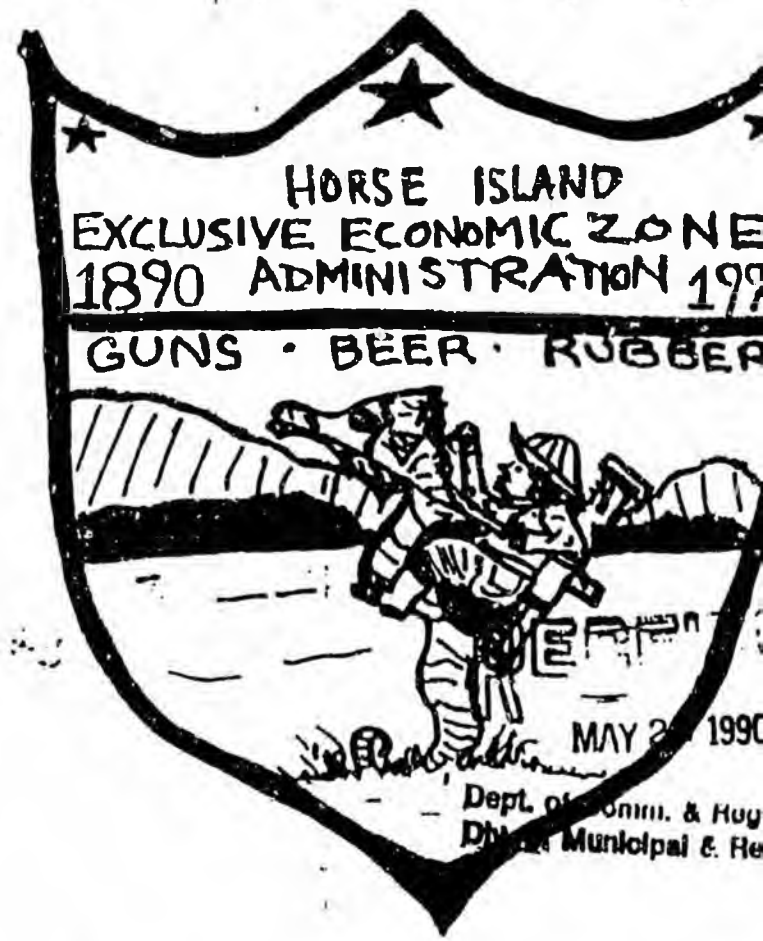
In conclusion I would like to say that putting a tax on all cabins in this area will lesson the pleasure that cabin owners have being able to go and hunt and fish in this beautiful area.

Thank you,

Farlin F. Cameron



**ON THE
ALERT**



**CELEBRATING
100 YEARS
OF
FREEDOM**

Breaking free for 1990

Your presence is requested at the Horse Island Centennial Celebration.

Lt. Commander H.B. Mansfield, USN, captain of the USCGC steamer Patterson, named Horse Island one-hundred years ago this summer.

So the members of the Horse Island Exclusive Economic Zone Administration (a group of Horse Island land owners and users committed to the protection of freedom and the Alaskan way of life) decided to have a party.

The festivities begin Saturday, June 9, 1990 at 3 pm. There will be fun and games along with a serious discussion about what can be done to stop the land and revenue hungry City and Borough of Juneau from imposing it's unwanted will upon our island paradise.

All your friends will be there... so join us at the Horse Island Exclusive Economic Zone Administration's "Festival of Freedom."

R.S.V.P.

Horse Island Exclusive Economic Zone
Administration
P.O. Box 2208
Juneau, Alaska 99802
(907) 364-2310



TIDE TABLE

Sat.	High:	3:09 pm
		14.3 ft
	Low:	8:36 pm
		3.9 ft
Sun.	High:	2:33 am
		16.5 ft
	Low:	9:11 am
		-1.6 ft
Moons:		Full

The hope is that the informal economic sector can be expanded. People can become politicized by active participation in thriving small economies and mutual support networks which they themselves control.

May 18, 1990

LBC Component
Department of Community & Regional Affairs
949 E. 36th Avenue, Room #405
Anchorage, Alaska 99508
FAX: 563-1734

RECEIVED
MAY 22 1990
Dept. of Comm. & Regional Affairs
Div. of Municipal Affairs

To Whom It May Concern:

The issue of annexing into the City & Borough of Juneau a 1116 square mile area of Admiralty Island has received little community focus or debate. The players in this issue are the State's Local Boundary Commission, the City Government and the Green's Creek Mining Consortium who line up against the residents of the Mansfield and Glass Peninsula and Horse Island and Colt Island. Government and business want to expand the Borough, however the people who own what little private and permitted land there is in the proposed expansion area do not want to be acquired.

Thus we have the classic back drop of the "Big Guy" against the outnumbered "Little Guy". This issue will no doubt be settled on the principle that serves the good of the whole, I must ask what that good is?

As the local sportsman knows and cherishes, the distance between the City of Juneau and Admiralty Island might as well be half a world apart. The individuals who have chosen to make a life in places like Funter Bay live under very different circumstances than the assembly members who are soon to represent them. It is fundamentally correct to say that the conditions of life, the interests, wants and needs of the rural residents about to be acquired by the City & Borough will be diminished when they become involuntarily annexed.

Clearly the losers are anyone who owns property in the expansion area and anyone who ever dreams of owning and building a remote cabin without permits and City & Borough of Juneau building codes. So who are the winners and what is the 'good of the whole' that's being served?

Green's Creek Mine is a winner presumably, since they proposed and are in favor of their leased mining properties being acquired by CBJ. In fact they are the reason for the expansion. The prospect that in the short life time of the mine they would be encompassed by a new Chatham Borough is enough encouragement to side them with CBJ expansion. They have cut their losses by siding with the largest regional metropolis that could command the greatest political access. This has a bipolar effect on Alaska's rural development by leaving out the peripheral communities that may have a indigenous claim to the resources being extracted.

The City and Borough Government perceives themselves and the people they represent as winners in this new arrangement. This assumes that Big is Better and Taxes will exceed the cost of services rendered in the newly annexed areas. Neither of these assumptions are likely.

If you are an active Juneau Hunter, Fisherman, Kayaker, Adventure Trekker or Naturalist; the notion of the City and Borough extending political control into the Seymour Canal should be sufficient to set off a warning light. For those of us like myself, who welcome Green's Creek Mine to this community must understand that annexation is not necessary for its continued positive contribution to this local economy. Ultimately we must understand that the Green's Creek Mining consortium is a Multi-National Corporation with a responsibility to its shareholders and not to the benevolent good of the whole.

The State's Local Boundary Commission's proposal to expand upon the City and Borough relatively meager annexation plan is disingenuous at best. While governments world wide are pushing towards decentralized political systems with greater regional autonomy, the State of Alaska appears to be backsliding.

Very truly yours,



Peter D. Jones
P. O. Box 02-1064
Juneau, Alaska 99802-1064

May 17, 1990

LBC Component
Department of Community & Regional Affairs
949 E. 36th Avenue
Room #405
Anchorage, Alaska 99508

FAX: 563-1734

To Whom It May Concern:

I think it highly unfair for the City & Borough of Juneau to be allowed to approve annexation of a 140 mile perimeter, which happens to include Horse and Colt Island.

Both Horse and Colt Island are strictly recreational areas sold via state lotteries over the past 10 years. As a land and cabin owner on Horse Island I find it unconstitutional to have to pay taxes based upon a City whim of desiring tax monies from the Greens Creek Mine.

If you want Greens Creek Mine dollars, fine, but do not find it necessary to pass your greed on to other existing Juneau and Douglas taxpayers. We already pay our taxes through our mortgage and housing loans and property values.

Not to mention the stupidity of having to build recreational cabins to City codes and provide water and sewer requirements when we have no such luxuries being provided to us by the City.

I bought land on Horse Island to get away from Juneau and have a quiet place to get away with my kids. I did not buy land to build a full time home in City limits.

Thank you.

Patti D. Jones

Patti D. Jones
P. O. Box
Juneau.

Jordan Creek Center
8800 Glacier Highway, Suite 223
Juneau, Alaska 99801

RUDDY, BRADLEY & KOLKHORST

A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW

P.O. Box 34338
Juneau, Alaska 99803-4338
Telephone (907) 789-0047
Fax (907) 789-0783

William G. Ruddy
James B. Bradley
Kathryn M. Kolkhorst

May 17, 1990

RECEIVED

MAY 21 1990

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

Local Boundary Commission Component
Department of Community & Regional
Affairs
949 East 36th Avenue, Room 405
Anchorage, AK 99508

Re: Proposed annexation of Mansfield Peninsula by
the City and Borough of Juneau

Dear Persons:

I am an owner of real property in Funter Bay and am strongly opposed to the proposed annexation. Some of the reasons for my opposition are as follows:

1. There is virtually no community of interest between CBJ and Funter Bay. Indeed, most of the people who go to Funter do it to escape Juneau. Is it really necessary to allow the City to pursue them?

2. If annexation took place, the City and Borough of Juneau would provide absolutely no services to Funter Bay except, perhaps, planning and zoning, which, to the best of my knowledge and belief, no one in Funter wants anyway. Beyond that, the City is incapable of delivering any service. That may not be too bad because the people of Funter don't want any City services anyway. However, it is strikingly mindless to believe that it makes sense to take a community of people who do not wish to be brought into the city, bring them in against their will, give them no services and make them pay for the privilege. That sort of a result can only be the product of an overzealous and uncaring bureaucracy.

3. There has, in limited circles, been discussion of placing all land within the state into one borough or another thereby ignoring the concept of the unorganized borough which has served the state so well over the years. While such an organizational move is possible, I believe the concept is highly unlikely to survive serious legislative scrutiny. If time proves me wrong and it

Local Boundary Commission
May 17, 1990
Page 2

becomes necessary to place Funter Bay into some borough,
the problem can be dealt with at that time. For the
present, Funter is in the unorganized borough and wants to
stay there.

Thank you for your time and attention.

Very truly yours,

RUDDY, BRADLEY & ROLKHORST



James B. Bradley

JBB:gm

cc: Local Boundary Commission, Juneau
Honorable Dick Eliason
Honorable Peter Goll
Mr. Kevin Ritchie, Juneau City Manager
F. O. Eastaugh

May 17, 1990

LBC Component
Department of Community & Regional Affairs
949 E. 36th Avenue, Room #405
Anchorage, Alaska 99508
FAX: 563-1734

To Whom It May Concern:

I think is highly unfair for the City and Borough of Juneau (CBJ) to be allowed to acquire annexation of a 140 mile perimeter, which happens to include Horse Island and Colt Island.

Both Horse Island and Colt Island are strictly recreational areas sold through State of Alaska lotteries over past years. As a land and cabin owner on Horse Island I find it unconstitutional to have to pay taxes based upon a CBJ desire for tax monies from the Green's Creek Mine.

I understand Green's Creek Mine approached CBJ first on this issue. If the City and Borough of Juneau want Green's Creek Mine dollars and Green's Creek Mine wants CBJ protection and services, fine, but do not find it necessary to pass your greed on to other existing Juneau and Douglas taxpayers. We already pay our taxes through sales tax, land and property values.

Not to mention the stupidity of having to build recreational cabins to City codes and meet water and sewer requirements when we have no such luxuries or services being provided to us by the City. Nor want any.

I bought land on Horse Island to get away from Juneau and have a quiet unrestricted place to spend time with my kids. I did not buy land to build a cabin to CBJ specifications and codes. What happens when I want to put a deck around my cabin. Do I fly a CBJ building inspector at my expense to Horse Island to tell me how to plan my dream. Hell no!

Thank you,

Patti F. Jones

Patti F. Jones
P. O. Box 02-1064
Juneau, Alaska 99802-1064

CC: The Juneau Empire
Murray Walsh, CBJ
Rep. Jim Duncan
Rep. Fran Ulmer
Rep. Bill Hudson

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MAY 22 1990

Dept. of Comm. & Regional Affairs
Div. of Municipal Affairs



CITY/BOROUGH OF JUNEAU
★ ALASKA'S CAPITAL CITY

May 16, 1990

Mr. Gene Kane
Division of Municipal and Regional Assistance
Department of Community and Regional Affairs
949 E. 36th, Room 407
Anchorage, Alaska 99508

Dear Mr. Kane:

The City and Borough of Juneau Assembly requests the Local Boundary Commission (LBC) allow the CBJ until June 15 to make a formal response.

We request that the LBC's plan to hold a public hearing in Juneau on Friday, July 13 at 7:00 p.m. be reconsidered. July 13 is a Friday and thus not a good day of the week for an evening meeting. We recommend Thursday, July 12 and we would be glad to provide a hearing room either in our Assembly Chambers or Centennial Hall.

Please advise if there are additional arrangements we can make.

Sincerely,


Kevin Ritchie
City Manager

KCR:smo

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MAY 16 1990

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

May 14, 1990

Dan Bockhorst, LBC Component
Department of Community and
Regional Affairs
949 E. 36th Avenue, Room 405
Anchorage, Alaska 99508

Dear Mr. Bockhorst:

My husband and I are full-time residents of Funter Bay which falls into the area your commission has recommended to be included in the Greens Creek annexation by the City and Borough of Juneau. My husband and I are opposed to this annexation proposal. The City and Borough of Juneau is not committed to the annexation of any territory other than the area around the Greens Creek Mine, and the community of Funter Bay has expressed a desire not be annexed by any borough.

There are no City or State services provided or requested. We are a responsible community that takes pride in doing for ourselves. Our houses are built at least to code for fire and building safety purposes and septic systems are installed as a matter of course. We haven't done these things because inspectors were breathing down our necks rather we've done them because we recognize the importance of prevention. We provide all our own service needs of electricity, water, sewer and trash removal with no help from any State or Federal agency. There is no scheduled freight system servicing our community. There are no schools for the two school-age children. The children are being educated through home schooling. Government wants in for the purpose of regulation and taxation. It's difficult for us to see what we gain in return.

We appreciate the fact that you want to draw the lines and square the corners so to speak. However, we're having trouble accepting that in this squaring up we should end up as a part of the Juneau Borough. We have what has been referred to as a minimalist attitude toward government which is the term that was used to describe the Community of Gustavus. The State Constitution recognizes the unorganized borough when it states that all areas will be included in boroughs both organized and unorganized. With this in mind we feel we would be better served by remaining in an unorganized borough status.

RECEIVED

JUN 01 1990

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

Letter to Dan Bockhorst
May 14, 1990
Page 2

Thank you for taking public comment. Please keep us informed of your actions.

Sincerely,

Karey H. Cooperrider
Joseph M. Giefer
Karey Cooperrider and
Joseph Giefer
4 Crab Cove
Funter Bay, AK 99850

cc: Southeast Regional LBC
Honorable Dick Eliason
Honorable Peter Goll
Kevin Ritchie

Sam and Helen Pekovicn
P.O. Box 20885
Juneau, AK 99802

May 14, 1990

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MAY 16 1990
Dept. of Comm. & Reg. Affairs
Div. of Municipal & Reg. Assk.

Local Boundary Commission Component
Department of Community and Regional Affairs
949 E. 26th Avenue, Room 405
Anchorage, AK 99508

Dear Sir or Madam:

This letter is to object to the local boundry commissions recommendation that the City and Borough of Juneau annex all of Mansfield Peninsula and other areas as well, such as Green's Creek, etc.

My wife and I are property owners and part-time residents in Funter Bay and plan to be full time residents there in two to three years.

I can see no reason in the world why Funter Bay, Green's Creek, or any other community should be annexed into the Juneau Borough, or any other Borough for that matter.

We are self sufficient in Funter Bay and have not asked to be annexed, nor have we asked for any services: and though we buy our supplies in Juneau or Hoonah, we pay premium prices for getting them to Funter Bay. Often times the freight comes to more being shipped from Juneau to Funter Bay than from Seattle to Juneau.

We supply our own water, sewer, electricity etc. and have no state or borough roads: no police or fire protection, and no schools. We also have no t.v., telephone, mail, freight, ferry or any other services. The latter services are not borough functions, although they might like them to be!

I fail to see how Juneau, Hoonah, Angoon, Haines, or anybody for that matter, is going to do one damn thing for Funter Bay residents except tax them for nothing. Somehow that does not seem right or fair to me, and I hope to you.

I might add that whatever service they could try to give would be ineffective and inefficient, costing far more to try and provide than it's worth, but government being what it is, I suppose that won't make any difference to the powers that be.

As a life long Alaskan, resident and property owner of both Juneau and Funter Bay, I am somewhat concerned with the new mentality of some of the voters and public officials who seem to have the attitude of "get all you can get no matter who or what it hurts", in the name of so called "Governmental Progress" (or further the empire).

Sincerely,



Sam Pekovich

cc: Peter Freer, Local Boundary Commission
The Honorable Dick Eliason, Alaska State Senator
The Honorable Peter Goll, Alaska State Representative
Mr. Kevin Ritchie, Juneau City Manager
The Honorable Jim Duncan, Alaska State Senator
The Honorable Fran Ulmer, Alaska State Representative
The Honorable Bill Hudson, Alaska State Representative

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MAY 16 1990

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

Sarah and Charles Lupro
3051 Nowell Avenue
Juneau, Alaska 99801
May 14, 1990

Local Boundary Commission Component
Department of Community and Regional Affairs
949 E. 36th Ave., Room 405
Anchorage, Alaska 99508

Dear Sirs:

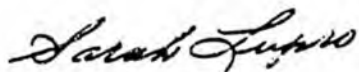
As residents and property owners in Juneau and owners of property in Funter Bay we request your records to show we are in strong opposition to the annexation of Funter Bay by the Juneau Borough.

Funter Bay can be reached from Juneau only by float plane or small boat and both are restricted by weather conditions. None of the services such as fire and police protection, streets, water and sewer services can be provided or are wanted in the area.

Although the Juneau Borough could increase their tax base by this annexation, the administration alone will become an added expense to the Borough. The cost of holding city/borough elections, being requested to provide police services, the correct type of firefighting equipment and firefighters in the case of a fire will be an additional expense to the Borough. We as taxpayers of Juneau object to another increase in our taxes for something that is not needed or wanted.

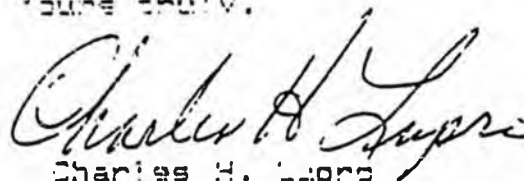
We feel this proposed annexation should not be considered without input from the residents and property owners of Funter Bay. There should be a public hearing held in Funter Bay so all concerned parties have a chance to express their views.

Yours truly,



Sarah Luoro

Yours truly,



Charles H. Luoro

cc: Honorable Dion Ellison
Honorable Peter Goff
Dr. Kevin Preece
Local Boundary Commission, 12 Region

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MAY 18 1990

Dept. of Comm. & Reg. Affairs
Div. of Municipal & Reg. Ass't.

David A. Horton, Jr.
P.O.Box 021032
Juneau, Alaska, 99802

May 14, 1990

Local Boundary Commission Component
Department of Community and Regional Affairs
949 E 36 Ave., Rm 405
Anchorage, Alaska 99508

Gentlemen:

I wish to state that I own four waterfront lots that were former fish trap sites on Mansfield Peninsula on Admiralty Island and to date have built two cabins with outbuildings on two of these four lots. I have plans to build two more cabins in the near future and do not look forward to dealing with Juneau Borough Building Codes nor taxes if this area is annexed by Juneau Borough or any other borough for that matter.

I do not agree that the state of New York has the right to tax my Wall Street investment portfolio, nor do I believe Juneau Borough should have the right to tax my investments on Admiralty Island. I spent 22 months in Vietnam and gave a part of my body for this great fair nation. I would do it again if asked because I believe in fairness and enjoy the freedoms that National defence provided. However, I do not see any direct benefit to me from any taxes I would have to pay to the Juneau Borough or any other borough if my land and investments end up in an organized borough. In all fairness, I have to get Veterans hospital services out of Seattle or Anchorage as Juneau just knows how to mess it up. My investments within the City/Borough of Juneau already pay for what community service benefits I receive. I am in opposition to my land being annexed by any borough.

For the record, I am opposed to annexation of Greens Creek Mine by any borough in that they struck a compromise with Juneau Borough where they would not house the work force at the mine site, which probably may have proven more cost effective for the mining company. However, wishing to be good neighbors, agreed to contribute to Juneau's economy by housing mine workers in Juneau housing which is taxed to support the hospital, airport and all other community services. I do not see the fairness of this annexation either and therefore I am in opposition to annexation of Greens Creek mine by any borough also.

Page 2 Horton
May 14, 1990

Thank-you for your time. I hope you will give this life
time Alaskan a break and restore my faith in this great
U.S.A. Please make this part of the public record.

Sincerely

A handwritten signature in cursive script that reads "David A. Horton, Jr." The signature is written in dark ink and is positioned above the typed name.

David A. Horton, Jr.



Clyff Kobayashi
7691 Glacier St
Juneau, AK 99801

5/13/90

To Whom it may Concern:

I would like a copy of your report suggesting Annexation of Areas of the Mansfield Pen. on Admiralty Island by the CBJ. I would also like reasons for this proposal. Presently there are several proposals to include the Mansfield Pen. to Admiralty National Monument as was originally proposed in A-2 legislation. Presently both the Public Lands Trust and Nature Conservancy are considering

Purchasing private no "dungs"
on Admiralty Island for
additions to the monument.

I hope the report reflects
these points and includes
that Sen. Stevens, Murkowski,
and Rep Young support
legislation to purchase lands
on the island by Congress
to add to the monument.

I oppose the CBJ annexation
of ~~the~~ areas on Admiralty
Island and await a copy
of your report.

RECEIVED

MAY 16 1993

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

Yours truly,
Cliff Hoban
7691 Glacier Hwy.
Juneau, AK 99801

5/10/90

Local Boundary Commission
To; ~~Mayor and Assembly~~

From; William, Kathleen, and Ernest Brent

Our family has lived on the West Side of Admiralty Island for 8 of the last 11 years. Our family has build a life out their we are proud of.

The private land is part of a 1916 patent Homestead, Survey No. 1159. Homestead Entry Survey 85.

Its South of Hawk Inlet 5 miles and North of O'Cube Cove 7 miles.

In the past 10 years we have build a log home and 3 out Building with all the lumber milled on site.

Plus we have build 20 raise Beds for growing our food.

We have had some ^{lean} years with ~~at~~ less than \$5000.00 ⁱⁿ thousand a year.

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MAY 16 1990

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

Most of our income has come from the working on the North Slope, while my wife keeps the Homestead working by herself.

We fly in and out of Juneau and spend most of our money there.

There are 10 other land holders that own part of the Homestead, some where around 70 acres of private land altogether.

So speaking for myself only and family, we do not want to become part of the C.J. Ball we see is a land grab, to get money with no services.

If we did go into a Borough, we would like to go into the Chatman Borough.

Thanks you
The Brents

William Kathleen Ernest

15011 33 43

Juneau, Alaska

99703

En - 170-421

Philip & Donna Emerson
3 Crisp Cove
Funter Bay, AK 99550-0140

May 10, 1990

RECEIVED

MAY 14 1990

Local Boundary Commission
949 E. 36th Ave., Suite 405
Anchorage, AK 99508

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

Commission Members:

We wish to reiterate to you that we are adamantly opposed to inclusion in the City and Borough of Juneau's "ideal boundaries". The State of Alaska, through your actions, is forcing the community of Funter Bay into an organized borough against our wishes and best interests. The City and Borough of Juneau has asked that we be removed from the annexation proposal. The CBJ recognizes the validity of our arguments against annexation; however, they would possibly succumb to pressure from your agency with their annexation of Greens Creek at stake.

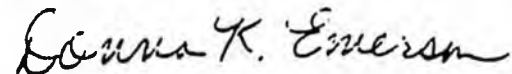
The Local Boundary Commission has not at any time contacted any bona fide resident of Funter Bay to inform us of the activities they have undertaken and which affect us so vitally. It would be most informative to peruse the mailing list of the "1,000 copies of an informational tabloid on the Chatham/Juneau model borough boundary map project" which it states in the Draft Proposal dated 4/9/90 were mailed to "152 municipalities, organizations, business and other interested parties on 12/7/89". I received a copy of the Draft Proposal and tabloid from Representative Peter Goll's office at my request, on May 2, 1990. Does this kind of exclusionary action show the state to be truly "inviting comments on or before January 10, 1990"?

We further feel that should the LBC feel compelled to include Funter Bay in an "ideal boundary", we be included in the Haines ideal boundary. Many arguments could be made to align our community with Haines: let it be enough to cite the paragraph on page 14 of the above mentioned Draft Proposal. It refers to the "minimalist attitude" of Gustavus toward government. This can certainly be said of Funter Bay in an even stronger vein, as we have NO state provided or subsidized services in this community.

We again request that the Commission hold public hearings in Funter Bay to gather the testimony of the permanent residents of the community prior to taking any action on this matter. We also request that our protests be made a matter of record. We further request that all proceedings that in-

give these matters be made known to us in ample time for us to comment by mail, or to attend any open meetings. All of these requests certainly seem to us to be well within the intent of the laws of the State of Alaska.

Sincerely,



Donna K. Emerson



Philip J. Emerson

cc: Senator Dick Eliason
Representative Peter Goli
Kevin Ritchie, City Manager of Juneau
Peter Freer, Supervisor, SE Regional Office of LSC

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

P.O. BOX 3-1000
JUNEAU, ALASKA 99802
PHONE: (907) 789-6261

SOUTHEAST REGIONAL DIRECTOR

May 10, 1990

RECEIVED

MAY 14 1990

LBC Component
Alaska Department of Community
and Regional Affairs
949 East 36th Avenue, Room 405
Anchorage, Alaska 99508

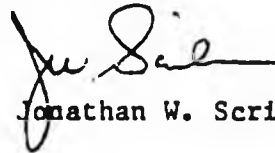
Dept. of Comm. & Reg. Affairs
Div. of Municipal & Reg. Ast.

Ladies or Gentlemen:

We have reviewed the draft report concerning 'ideal boundaries' of existing and prospective boroughs in Southeast Alaska (including the proposal by the City and Borough of Juneau to annex Greens Creek Mine).

We have no comments to offer at this time.

Sincerely,



Jonathan W. Scribner

cc: Peter Freer, Supervisor, Southeast Regional Office, Department of
Community and Regional Affairs
Mark S. Hickey, Commissioner, Department of Transportation
and Public Facilities

JOEL BENNETT PRODUCTIONS

114 WEST SIXTH STREET

JUNEAU, ALASKA 99801

U.S.A. (907) 586-1255

May 9, 1990

RECEIVED

MAY 14 1990

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

Local Boundary Commission
Department of Community and Regional Affairs
949 E. 36th Ave. Room 405
Anchorage, AK 99801

Dear Members of the Commission,

This is to strongly object to the Local Boundary Commission's recommendation that the City and Borough of Juneau annex all of Mansfield Peninsula, as well as other areas, and Greens Creek.

I am a property owner and part-time resident of Funter Bay, with a history of over 20 years of use of the area. In my view, there is no good reason at this time to place the small community of Funter in a borough that can provide no services to it.

Non road-connected areas in the State must be treated differently for purposes of Borough annexation, unless (1) the residents request annexation, or (2) a reasonable level of services can be provided. It is clearly unreasonable otherwise.

Moreover, borough annexation of Mansfield Peninsula would run counter to the very essence of why persons have chosen to locate there. Surely this is not a policy in the best interests of either the State or the local government.

Please modify your recommendation to exclude Funter and the Mansfield Peninsula from annexation to any borough. Additionally, no hearing has been held for the benefit of Funter bay residents. No final action should be taken until this occurs.

This is a very serious matter to all of us concerned. Please reconsider your recommendation, in view of the objections of the property owners involved.

Yours sincerely,


Joel Bennett

cc: Southeast Regional Office, Local Boundary Comm'n
Senator Dick Eliason
Representative Peter Goll
Mr. Kevin Ritchie, Juneau City Mgr

Philip J. Emerson
3 Crab Cove
Funter Bay, AK.
99850-0140
May 9, 1990

Dear Mayor Botelho and fellow assembly members,

Due to the fact that it is economically impossible for me to attend current and future assembly meetings and that with weekly mail service I can only write letters every other week, would you please read this letter at the next assembly meeting that pertains to the annexation of Mansfield Peninsula.

I would like to reiterate on the comments made by two of the residents of Funter Bay at your May 7th meeting.

First I would like it to go on record that the community of Funter Bay was not informed by the Local Boundary Commission of any potential changes in our status as an unorganized borough. It was stated by Mr. Gene Kane at the May 7th CBJ meeting that all concerned communities were sent information on the formation of ideal borough boundaries and this was not true because Funter Bay was never informed. I also noticed that Mr. Kane stated that the whole state must be divided up into boroughs. For some reason he left out the whole law; Article X, section 3 of the Alaska state constitution states that, "The entire state shall be divided into boroughs, organized and unorganized." Funter Bay is part of the unorganized borough and wishes to remain as such. There was also a statement made that Funter Bay would not exist except for Juneau. I've never heard such obscure reasoning in my life. Would Juneau exist except for Seattle?

I have heard there have been a number of comments made by various members of the assembly on both television and radio concerning the fact that Funter Bay does not pay it's fair share of borough services. My family and I spend on the average three weeks a year in Juneau. I usually run my fishing boat the three and a half hours to Auke Bay where my moorage fees are \$5.75 a day + tax, I rent a car for approx. \$40 a day + tax, I buy fuel for this car + tax. We buy all our meals in town and occasionally rent a motel room + tax. For every service we use and for everything we consume in Juneau we pay taxes. How do we differ from the people from Hoonah, Pelican, Elfin Cove, Haines etc. that come to Juneau and take advantage of what is available? If the CBJ were to annex every community that buys groceries, building supplies and does their banking in Juneau you would certainly have your hands full. The criteria set up by the Model Boundaries Commission Study states, "Alaska's constitution requires that each borough shall embrace an area and population with common interests to the maximum degree possible."

My total income is derived from trolling, in the last 10 years I've sold 4 king salmon in Juneau, my economic and social life centers on my fishing and involves the communities of Excursion Inlet, Hoonah, Elfin Cove, Gustavus and Pelican. I have built my own house here at Funter, installed my own water system, generate my own power, live on a poverty level income and have never had to seek state or federal assistance. My wife teaches our children, we do not have roads and we do not own a car. We harvest a large amount of our food from the sea and land, and the community of Funter Bay has never solicited monetary aid or assistance from any state, federal, or local agency. I ask you, do I share common interests with you?

As a fisherman I travel to many of the small communities and I see that the state has supplied them all with telephones, t.v. dishes, community generators, subsidized electric bills and when there are 7 school age children present the state supplies a teacher and school facilities.

Does the borough take over this responsibility when it annexes a community? Does a borough also take over the responsibility of the state marine floats? Does the borough have the responsibility of collecting all the trash that accumulates from "recreational vessels"?

Due to the fact that Funter Bay does not share common interests with the U.B.I. to the maximum degree possible, we do not want to be included in the ideal borough boundaries of Juneau.

Respectfully yours,

Philip J. Emerson

Donna K. Emerson

Funter Bay, Alaska

May 7, 1990

RECEIVED

MAY 14 1990

Local Boundary Commission Component
Department of Community and Regional Affairs
949 E. 36th Ave., Suite 405
Anchorage, AK 99508

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

Gentlemen:

Along with our neighbors, my wife and I wish to be placed on record as opposing annexation of northern Mansfield Peninsula by the City and Borough of Juneau. Such action would include our small community of Funter Bay and would not benefit us or CBJ. For that matter, we see no advantages to being included in any Organized Borough. The only apparent beneficiary would be the Local Boundary Commission, whose concept of "ideal" boundaries would be satisfied.

Our primary objection to annexation is that, due to our location and lack of surface transportation, no services could be expected from CBJ. Funter Bay is not connected to Juneau by road, nor is it a port-of-call on the State Ferry System. Travel here is mainly by air, which is expensive and often subject to weather delays. CBJ would not benefit, despite being able to collect taxes without providing services, as appraisal and collection costs would likely exceed monies received.

A stronger case for annexation could be made if Funter Bay and northern Mansfield Peninsula had economic and population growth potential. It does not. Only fishing and/or logging could accomplish this, but the cannery and the once numerous fish buyers are gone, and the timber is of low grade. In addition, little private land on which to build homes is available.

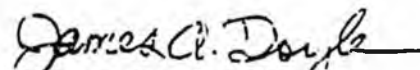
For the information of the Local Boundary Commission, Funter Bay has existed as a community since about 1900. Its present population of eleven - eight adults, three children - has been stable for many years. Also, for these same years, we have been completely ignored by the State and Federal Governments whenever matters concerning Admiralty Island were under discussion. To these entities, Angoon was and is the only settlement on Admiralty Island, and the one whose views are solicited and considered. This annexation matter is a good example. It was only by chance that Funter Bay residents learned of it and were able to obtain, a short two

weeks ago, a copy of Draft Report and Recommendation (dated 4/9/90). We object to this arbitrary and unfair treatment.

If, at some time in the future, it becomes mandatory that all areas in the State become part of an Organized Borough, we feel our interests would be better served by annexation to Haines, rather than CBJ. We have more in common with that entity and would have a larger voice in Borough affairs. Only a minor amendment in the Draft "ideal" boundaries would be required.

Finally, we must remind the LSC that Funter Bay is in the Chatham School District. Our State Senator is in Sitka, our Representative in Haines. Annexation by CBJ would require these to be changed.

Sincerely,



James A. Doyle

1 Crab Cove

Funter Bay, AK 99850-0140

cc: Peter Freer, DCRA
State Rep. Peter Goll
State Sen. Dick Eliason
Kevin Ritchie, Juneau City Manager

4410 N. Douglas Hwy.
Juneau, Alaska 99801
May 9, 1990

LBC Component
Department of Community and Regional Affairs
949 E. 36th Avenue, Room 405
Anchorage, Alaska 99508

RECEIVED

MAY 14 1990

Gentlemen:

Dept. of Comm. & Reg. Aff
Div. of Municipal & Reg. A

I have read over the DRAFT report to the Local Boundary Commission concerning "ideal boundaries" of existing and prospective boroughs in central Southeast Alaska.

My wife and I own a small piece of property (15 acres) on northwest Admiralty Island five and one-half miles north of Funter Bay. We use our land as a base for subsistence hunting and fishing to feed our family. We are not opposed to the City and Borough of Juneau Annexing the Green's Creek Mine area (140 square miles), as per their original proposal to the Department of Community and Regional Affairs. We are very strongly opposed to the DCRA proposal to include in the annexation all of the Mansfield Peninsula including Funter Bay, the Glass Peninsula, Hawk Inlet, and Horse and Colt Island (1,116 square miles). Unless it is allowable to annex only the 140 square miles surrounding the Green's Creek Mine we are opposed to any annexation by the City and Borough of Juneau.

The annexation of our subsistence hunting and fishing property on the Mansfield Peninsula would result in additional property taxes, building permits, sewage disposal and water system permits from the City and Borough of Juneau which would make building a cabin on our property prohibitively expensive and troublesome. The added costs for property taxes and higher building costs would likely result in us having to sell our property. There are absolutely no benefits to us from annexation by the City and Borough of Juneau and we are completely opposed to it. Our family lives in Juneau and pays high taxes for the benefits we receive. We do not wish to be taxed on our remote property because we would then be taxed twice for the same benefits. We are living on a retirement income. All of the Admiralty Island property owners and hunting cabin owners from Funter Bay, Hawk Inlet, Horse and Colt Island, Mansfield Peninsula, and Seymour Canal that we have talked to are opposed to being annexed, taxed, and regulated by the City and Borough of Juneau.

Please allow only the annexation of the area immediately around the Green's Creek Mine or do not allow any annexation at all by the City and Borough of Juneau. Thank you.

Sincerely,

Phillip L. Gray

Phillip L. Gray

cc: Senator Jim Duncan
Representative Fran Ulmer
Representative Bill Hudson
CBJ Assembly members
CBJ Planning Commission members

Philip J. Emerson
3 Crab Cove
Funter Bay, AK.
99850-0140
May 8, 1990

Local Boundry Commission Component
Dept. of Community and Regional Affairs
949 E. 36th Ave. Room 405
Anchorage, AK 99508

RECEIVED

MAY 9 - 1990

Dear Mr. Rutherford,

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

First I would like to say that the community of Funter Bay would like to be notified about any further potential changes in our social, cultural and economic activities. We have once a week mail service when weather permits but this can stretch to a month or more during the winter storms.

The community of Funter Bay is located on the western shore of Mansfield Peninsula approx. 10 miles south of Point Retreat and 10 miles north of Hawk Inlet. We are in the Angoon voting and Chatham school district, our Senator is Dick Eliason from Sitka, our Representative is Peter Goll in Haines. I have been a resident of Funter Bay since 1972 and make my living as a commercial fisherman, my fish are sold in Hoonah, Excursion Inlet, Pelican, Gustavus, and Elfin Cove. Like most small island bush people I go to Juneau a few times a year to buy groceries and other supplies. Funter Bay receives no services from CBJ. When I am in Juneau I am charged moorage on my boat, pay a bed tax at the motels, pay a tax for the car I rent and tax on the fuel for the car. The schooling for my children is State of AK. correspondence and the library and other services for my childrens' education are through the State of Alaska. Our once a week mail service with Ward Air of Juneau is paid for by the Federal Dept. of Transportation.

Each island community has it's different needs. At Funter Bay we have no roads, each household supplies it's own services and as a community we have never asked for monetary aid or assistance from any local or State agency. As a small community we do not need any revenue generating capacity to provide local services, and do not need to belong to a borough that would be geographically separate and physically difficult to reach. To attend a CBJ meeting it would cost approx. \$300 roundtrip airfare and probably \$100 a day to stay in Juneau, this is a very large expense for my subsistence lifestyle.

I cannot see that Funter Bay is in need of any services the CBJ has to offer. If police are needed there are State Troopers (in 18 years I've never had to call the police), if we are in need of medical help we call the closest floatplane or helicopter and get to the hospital. I'm sure if you checked with the CBJ firedepartment as to the response time to a fire in Funter Bay there would be no

point in coming. Mansfield Peninsula is basically owned by the federal government and state and they do a more than adequate job of managing their waters and land. I would also tend to say that our houses are better built, zoned better and have more "green strips" than most areas of the CBJ.

In the Model Boundries Study newsletter of Dec. 1989 it states, "The Commission and the Department agree that this project should not call for the creation of regional governments until the local residents want them." "...local residents seek the incorporation voluntarily and their area must not lose financial resources." The residents of Funter Bay have made no requests to join any borough.

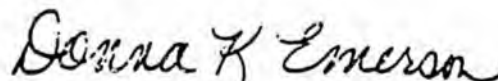
I think the McDowell report covers many of my views. All the communities in the unorganized borough have such diversified needs that each one should be responsible for themselves. The unorganized borough of Southeast should remain the same and then there would be no conflict of tax revenue grabbing from short term projects like Greens Creek and logging camps. Does Greens Creek conform to the Natural Geography of CBJ when one has to cross two bodies of water and two islands?

Philip J. Emerson



Respectfully yours,

Donna K. Emerson



cc: Sen. Dick Eliason
Rep. Peter Goll
Kevin Ritchie, City Manager of Juneau
SE Regional Office of LBC

RECEIVED

MAY 7 - 1990

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

May 3, 1990

Funter Bay, Alaska
99850-0140

State of Alaska
Department of Community and Regional Affairs
949 East 36th Avenue, Suite 400
Anchorage, AK 99506-4302

Dear Sir:

We strongly object to the Greater Juneau Burrough's efforts to incorporate the area known as the Mansfield Peninsula which includes Funter Bay and the Green Creek Mine.

The Greater Juneau Burrough is now the largest burrough in the nation and its greedy tentacles are reaching out for more people to tax.

Ordinarily, the purpose of a burrough or county is to assist with needed utilities like sewer, water, fire and police protection. In our case, we are over fifty miles from Juneau on Admiralty Island and far removed from the Juneau Burrough. They would not be able to provide us with anything of any value whatsoever. Our community is composed of several low-income commercial fishermen and their families who can ill afford the heavy and unnecessary Burrough taxation. This would create a terrific hardship on all who live there.

We therefore most urgently request your personal assistance do everything possible to stop this burrough takeover.

Respectfully,

William E. Hixson

William and Helen Hixson

RECEIVED

MAY 04 1990

MRAD
DEPT. OF COMMUNITY
AND REGIONAL AFFAIRS

Philip & Donna Emerson
3 Crab Cove
Funter Bay, AK 99850-0140

April 29, 1990

Local Boundary Commission Component
Department of Community and Regional Affairs
949 E. 36th Ave. Room 405
Anchorage, AK 99508

RECEIVED

MAY 7 1990

Attn: Mr. Marty Rutherford, Director

Dept. of Community & Reg. Affairs
Div. of Municipal & Reg. Assi.

Dear Mr. Rutherford,

We are permanent, full time residents of Funter Bay, and are writing out of concern for the current proposal of the Local Boundary Commission regarding the City and Borough of Juneau annexing a portion of Admiralty Island.


We want it noted on record that we are in opposition to being annexed into any Borough at this time. At present, the city of Juneau provides no services to this community, there are no services which the city could feasibly provide, and, we do not desire any services to be provided. Our livelihood is not in any way tied to Juneau. There is no road connection from Funter Bay to Juneau, there is no ferry connection, either. Funter Bay is not a bedroom community relying on Juneau for services.

The proposal as stands would cause a tax burden on this family. Even at the "low" mil rate accorded similar roadless areas, the amount would be substantial to us within the context of our income.

We are requesting that there be a public hearing on this issue in Funter Bay, to allow the residents an opportunity to voice their opinions on this matter. It is prohibitively expensive for us to fly to Juneau.

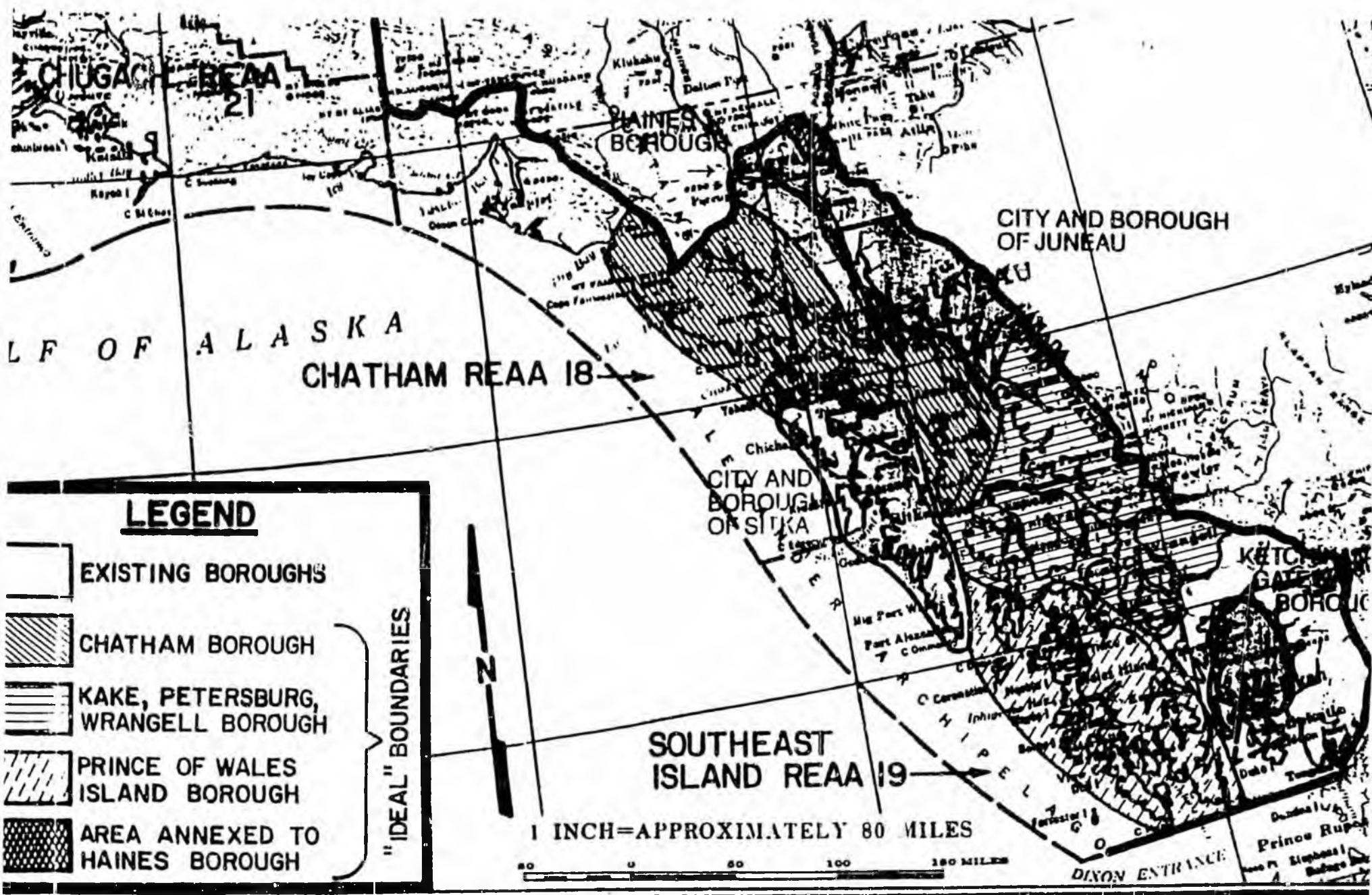
Please take note of our objections, and keep us informed of all meetings and the outcome of these meetings.

Respectfully yours,


Philip J. Emerson


Donna K. Emerson

cc: Sen. Dick Eliason
Rep. Peter Goll
Kevin Ritchie, City Manager
SE Regional Office of LBC



THIS MAP IS ADAPTED FROM A MAP SUBMITTED BY TOM BROWN, HOONAH PUBLIC SCHOOLS. THE ORIGINAL WAS COLOR-CODED. AS SUCH, IT WAS NOT POSSIBLE TO REPRODUCE A REASONABLY PRECISE FACSIMILE.



Forest Products, Inc.

January 30, 1990

Alaska Local Boundaries Commission
949 East 36th Ave., Room #405
Anchorage, Alaska 99508

Gentlemen:

In the December, 1989, issue of the Local Boundaries Commission publication, a model boundaries study was proposed for the Chatham/Juneau area. As a timber owner with operations on the west side of Admiralty Island, Atikon Forest Products is very interested in this proposal.

We would like to go on record as opposing the expansion of the current Juneau borough. We see no benefits to including our property at Cube Cove as a part of an expanded borough. On the other hand, we see several negative implications from the standpoint of additional tax burdens.

Please keep us informed as the Boundaries Commission progresses on its study to establish expanded boundaries for the current Juneau borough.

Sincerely,

Richard Hirschberg
President/CEO

RH/sh

cc: John Sturgeon
Jim Senna
Dick Buhler

RECEIVED

FEB 5 1990

Dem...
...

STEVE COWPER. GOVERNOR

DEPARTMENT OF LABOR

OFFICE OF THE COMMISSIONER

P O. BOX 21149
JUNEAU, ALASKA 99802-1149
PHONE: (907) 465-2700

FAX: (907) 465-2784

January 25, 1990

C. B. Bettisworth, Chairman
Local Boundary Commission
949 East 36th Avenue, Suite 404
Anchorage, AK 99508

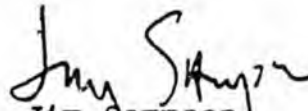
Dear Mr. Bettisworth:

Enclosed you will find comments prepared by staff of the Research and Analysis Section of the Department of Labor, concerning the Model Boundaries Study.

Should you have questions on these comments, please feel free to contact Greg Williams, State Demographer, at 465-4500.

We appreciate the opportunity to comment on the Study and apologize for the lateness of our response.

Sincerely,


Jim Sampson
Commissioner

Enclosure

JS/gd

COMMENTS ON THE MODEL BOUNDARIES STUDY

In general, the following principals should guide the formation of boroughs throughout the State and Southeast:

1. It is important that all areas of the state be included in boroughs as the basis for future economic development and allocation of state resources.
2. It is important that boroughs have as large a population as possible.
3. Boroughs should have as large a contiguous geographic area as possible. Islands should be included in their entirety in one borough to facilitate future infrastructure development. "Doughnut" boroughs and the formation of boroughs which isolate small economically untenable areas should also be avoided.
4. Boroughs must be large enough to already have resources, or be able to work toward development of substantial economic, service, and tax bases.
5. Small community-based boroughs should be avoided because they lack the economic base for future growth. Too many small boroughs make governance and provision of services difficult. They contribute to inefficient operation of state and local government programs because of their small scale of operations.
6. It is important that independent communities be able to retain their local governments and cultural heritage within boroughs. Therefore, existing city boroughs annexing territory should not absorb existing communities into the city/borough government.

In my opinion, Southeast should be divided into five or six boroughs. This could be done primarily through the creation of one or two new boroughs and the annexation of the remaining territory to the other four existing boroughs in Southeast. Population estimates are for 1988. I would oppose the formation of a separate Chatham Borough. It would have a population of only 2,593 and no economic or population center. It would also leave the Yakutat area, which cannot economically support a separate borough, completely isolated.

Southeast Island Borough - This borough would consist of most of Wrangell-Petersburg Census Area, and the Prince of Wales part of the Prince of Wales-Outer Ketchikan Census Area. This borough would include the Petersburg, Wrangell, Kake and Southeast Island School Districts. The population of the borough would be 10,630 people and would have economy based on logging, fishing, and possible port facilities for products from Canada in the future.

Ketchikan Borough - Ketchikan-Gateway Borough should annex the area currently in the Outer Ketchikan part of the Prince of Wales-Outer Ketchikan Census Subarea. Most of this area is occupied by Misty Fjords and is uninhabited. The population of the borough would be 12,770 people and include the communities of Hyder and Meyers Chuck in addition to the existing Ketchikan Gateway Borough. This annexation would add any future economic activity from the Quartz Hill Mine to the borough economy.

The Metlakatla Indian Reservation with 1,596 persons would probably wish to form its own borough. The legal status of Metlakatla as a reservation and its unique Tsimshian culture may require a separate borough. The small population and limited economy of Metlakatla, however, would suggest that it should be in some way allied to Ketchikan Gateway Borough.

Sitka Borough - Sitka Borough should be expanded through annexation to include all of Baranof and Chichagof Islands. This would mean the annexing of Port Alexander and the communities of Hoonah, Elfin Cove, Tenakee Springs and Pelican. I recommend that Sitka Borough be a different unit from Sitka City to allow retention of independent city governments in the annexed areas. This borough would have a population of 9,726.

Juneau Borough - Juneau Borough should be expanded through annexation to include all of Admiralty Island and all of the area along the Canadian Border to the Southeast Island Borough. This would include the communities of Angoon and Hobart Bay as well as the Greens Creek Mine. Again, I recommend that Juneau Borough be different from Juneau City to allow the City of Angoon to retain independent government. The population would be 25,611. It might be cleaner to leave Juneau as a City/Borough and annex the City of Angoon to Sitka Borough. This would mean splitting Admiralty Island between two boroughs.

Glacier Bay Borough - Haines Borough should be expanded through annexation to include Skagway, Klukwan, Yakutat, Gustavus and

Glacier Bay National Park. The population would be 3,757 persons. This borough would have the largest geographic area and the smallest population in Southeast. While the Park and Yakutat areas are difficult to access from Haines, the population of this area (about 800 persons) is too small to form a separate borough that could be economically self-supporting. Since Haines Borough is currently the second smallest borough in Alaska, the addition of this contiguous population and land area would benefit Haines. Future mining and tourism would aid the borough economically.

631 WEST 11th STREET
JUNEAU, ALASKA 99801
OCTOBER 12, 1989

ALASKA DEPT. OF COMMUNITY AND REGIONAL AFFAIRS
949 EAST 36th AVENUE - ROOM 405
ANCHORAGE, ALASKA 99508

ATTENTION: DAN BOCKHORST

DEAR MR. BOCKHORST:

IN RESPONSE TO YOUR NOTICE OF FILING OF A PETITION FOR ANNEXATION OF THE MANSFIELD PENINSULA AND THE GREEN CREEK MINE BY THE CITY AND BOROUGH OF JUNEAU LET ME SUGGEST THE FOLLOWING.

MY #1 SUGGESTION IS THAT YOU ATTACH ALL OF THE NORTHERN HALF OF ADMILITARY ISLAND TO THE CITY AND BOROUGH OF JUNEAU. YOU START AT THE PRESENT SOUTHWEST CORNER OF THE JUNEAU BOROUGH AND DRAW A LINE WEST TO THE NORTHEAST CORNER OF THE SITKA BOROUGH THEN NORTHWEST UP CHATHAM STRAIT TO THE SOUTHEAST CORNER OF THE HAINES BOROUGH. AS A MEMBER OF THE COMMITTEE THAT DREW THE PRESENT BOUNDARIES OF THE JUNEAU BOROUGH I WOULD HAVE INCLUDED ALL OF THE ABOVE WHEN WE FORMED THE JUNEAU BOROUGH BUT DIDN'T THINK WE COULD HAVE GOTTEN IT THROUGH BOUNDARIE COMELSSION. THIS WOULD SQUARE UP THE PRESENT BOROUGH AND STILL ALLOW ROOM FOR RURAL BOROUGH TO BE FORMED IF DESIRED.

MY #2 SUGGESTION IS THAT YOU DRAW A LINE FROM THE MOUTH OF HAWK INLET TO THE SOUTHEAST CORNER OF THE HAINES BOROUGH. THIS WOULD BE BETTER THEN THE SPOT ANNESATION THAT IS BEING PREPOSED.

JUNEAU IS THE SERVICE CENTER FOR ALL OF THE ABOVE AREA AND ALTHOUGH THEY COULD EXIST WITH OUT US IT WOULD BE MORE EXPENSIVE AND DIFFICULT. THEIR QUALITY OF LIFE IS BETTER BECAUSE OF THE EXISTANCE OF THE JUNEAU BOROUGH.

SINCERELY,



ALBERT L. SHAW

RECEIVED
OCT 16 1989

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

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

OCT 6 1989
RECEIVED

4410 N. Douglas Hwy.
Juneau, AK 99801
September 26, 1989

Dan Bockhorst
Department of Community and Regional Affairs
949 East 36th Ave., Room 405
Anchorage, AK 99508

Dear Mr. Bockhorst:

My wife and I own a small piece of property (15 acres) on northwest Admiralty Island (Mansfield Peninsula area). It is about five miles south of Point Retreat and five and one-half miles north of Funter Bay. There are no structures on the property, although we plan to build a small hunting cabin at some future date. The property is used for subsistence hunting and fishing and recreation only.

Our concern is over efforts of the City and Borough of Juneau during 1989 to annex part or all of the Mansfield Peninsula for taxation and regulation purposes. The original intent of CBJ appears to have been to annex mainly the Greens Creek mine for taxation purposes, but more recently their long-range intent is to annex all of the Mansfield Peninsula. We are not opposed to the Greens Creek mine area only being taxed, especially if CBJ incurs extra expenses for schools, etc., because of the mine operation and influx of workers to Juneau. Other communities such as Angoon, Hoonah, Tenakee, Gustavus and Haines also have shown interest in annexing all or part of the Mansfield Peninsula on Admiralty Island for taxation and regulation purposes.

We are very much opposed to our subsistence hunting and fishing property on Admiralty Island being annexed, taxed, and regulated by any community inasmuch as there are no services that could be provided that would justify any tax whatsoever. We purchased our land on Admiralty Island with the knowledge that it was outside the boundaries of CBJ and exempt from taxation. Also we are living on a retirement check and cannot afford more taxation, especially where no services are provided. We own a home in Juneau and already pay high taxes for all the services we receive in the Juneau Borough. We are also strongly opposed to any annexation because of new building regulations that would affect the building of even small cabins. We cannot afford to build a cabin unless it is constructed of salvaged materials because of our limited income. We also prefer to design our own water and sewage disposal systems rather than having CBJ tell us how to install them at prohibitive expense to us.

We have attended several public meetings by CBJ in Juneau on the proposed annexation and all property owners on North Admiralty Island were strongly opposed to being annexed, taxed, and regulated (Funter Bay, Horse and Colt Island, Barlow Cove). I have also called numerous property owners and cabin owners on the Mansfield Peninsula and all have been opposed to annexation by CBJ.

We strongly prefer that the Mansfield Peninsula on Admiralty Island not be annexed by the City and Borough of Juneau or any other community. If forced into annexation by state regulation, we prefer that the Mansfield Peninsula be annexed by a borough or community other than CBJ. The City and Borough of Juneau would likely impose the highest tax rate and the most severe building and land use regulations on remote area landowners.

Most of Admiralty Island is a national monument. There are questions as to whether private holdings surrounded by a national monument or U.S. Forest Service land can be taxed by the CBJ. Also, can private cabins on land leased from the U.S. Forest Service be taxed?

Please keep our name on your mailing list to receive materials concerning annexation of the Mansfield Peninsula on Admiralty Island (hearing notices, draft/final reports, etc.). Thank you.

Sincerely,

Phillip L. Gray

Carol J. Gray

Phillip L. Gray
Carol J. Gray

CITY
OF
ANGOON

P.O. BOX 189
ANGOON
ALASKA
99820

PHONE:
(907) 788-3653

RECEIVED
JAN 3 1989

June 2, 1989

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

Gene Kane
Local Government Specialist
Dept. of Community & Regional Affairs
949 E. 36th Ave., Suite 406
Anchorage, Alaska 99508

Dear Mr. Kane,

At a special meeting held on May 31, 1989 the council of the City of Angoon passed a motion to "proceed with the formation of a borough to include the Admiralty Island in it's entirety."

This action is a follow-up to the previous Resolution sent to the Local Boundry Commission. There should not be any annexation of any portion of Admiralty Island allowed.

During the next 60 days the council of the City of Angoon will be reviewing the boundaries to be included in the petition for the borough formation.

We will keep you posted as the petition developes.

Sincerely yours,


Edward J. Gamble, Sr.
Mayor

cc: Sen. Dick Eliason
Rep. Peter Goll
Peter Freer, Supervisor
Community & Regional Affairs

eg:ak

RESOLUTION NO. 89-06

RESOLUTION FOR THE LOCAL BOUNDARY COMMISSION.

WHEREAS, The City of Angoon has been included in the Chatham Borough Study without the request of the Council of the City of Angoon, and

WHEREAS, The City of Juneau is proposing to annex a portion of Admiralty Island during the upcoming Legislative Session, and

WHEREAS, The City of Angoon has been working on a study that involves the Western Shores of Admiralty Island or the entire Admiralty Island, and

WHEREAS, The study of the Chatham Borough and the proposal by the City and Borough of Juneau is directly in conflict with the interests of annexation of Admiralty Island by the only community located on the Island, and

WHEREAS, The City of Angoon is involved with the Department of Community and Regional Affairs on a Borough Study and annexation of Western portion of Admiralty Island,

NOW THEREFORE BE IT RESOLVED: that the City of Angoon strongly urges the Local Boundary Commission not to accept or approve any annexation proposals, prior to the presentation by the Council of the City of Angoon, on lands located on Admiralty Island.

Passed and approved by the Angoon City Council this May 17, 1989 by a vote of 5 Yeas, 2 Nays, 2 Absent, 2 Abstain.

For the City of Angoon


Mayor

ATTEST: Cynthia J. Paul
City Clerk

SEAL



GREENS CREEK MINING COMPANY

a subsidiary of BP MINERALS AMERICA

3000 Vintage Blvd. / Suite 200
Juneau, Alaska 99801
Telephone: (907) 789-4171
Facsimile: (907) 789-7112
H.M. "Ward" Wimborne
General Manager

May 18, 1989

The Honorable David G. Hoffman
Alaska Dept. of Community
and Regional Affairs
P.O. Box B
Juneau, Alaska 99811

Dear Commissioner Hoffman:

Greens Creek commissioned the McDowell Group to review the Draft Chatham-Region Borough Feasibility Study. In general, the McDowell Group's response makes it clear there is not a sufficient economic relationship between the communities within the proposed borough to warrant a creation of a borough, and that the cost of the proposed borough government has been underestimated in the study. Finally, the McDowell Group review recognizes that the relationship Greens Creek has with any community is with Juneau, where the mine workers reside and where Greens Creek's head offices are.

Greens Creek endorses the study and asks that you give it full consideration in your review of comments.

Sincerely,

H.M.W. Dean Van Dyk

H. M. Wimborne
General Manager

61.39
HMW/cj

RECEIVED

Dept. of Community & Regional Affairs
Div. of Community & Regional Affairs

hand delivered
RECEIVED

MAY 19 1989

COMMISSIONER'S OFFICE
COMMUNITY & REGIONAL AFFAIRS

THE McDOWELL GROUP
MANAGEMENT AND ECONOMIC CONSULTANTS

a division of



DATA DECISIONS GROUP, INC.

May 15, 1989

Mr. Ward Wimborne
Greens Creek Mining Company
3000 Vintage Blvd.
Juneau, Alaska 99801

Dear Mr. Wimborne:

Regarding our review of the Alaska Department of Community and Regional Affairs' *Draft Chatham-Region Borough Feasibility Study*, we have the following comments.

Contrary to the assessment made implicitly by Community and Regional Affairs (CRA), the proposed borough does not satisfy Alaska borough formation standards that requires "the population [in the proposed borough] is socially, culturally, and economically interrelated." In fact, communities within the proposed borough fall into one of three sets of communities that are quite diverse socially and culturally. These communities are economically similar in certain respects but they are not economically interrelated. Further, there is no economic relationship, either direct or indirect, between the Greens Creek mine (which would represent nearly half of the boroughs assessed property value) and the communities within the proposed borough. The financial viability of the proposed borough would be radically altered if the tax base represented by Greens Creek were dedicated to offsetting mine population-related costs in the borough (the City and Borough of Juneau) which supports mine operations and serves mine workers and their families. Finally, CRA may have understated the personnel and other operating costs associated with development and administration of such a large and diverse borough. Further study is warranted.

These and other points are discussed in more detail below.

Economy and demographics: The economy of the proposed Chatham Region Borough is based on a mix of the seafood and timber industries, primarily, as well as some tourism industry activity. Large scale mining occurs within the proposed borough boundaries, but this mining activity (at the recently opened Greens Creek mine) does not impact the resident population of the proposed borough. The economy that supports the region's population is seasonal, with peak economic activity during the summer fishing, timber and tourism seasons. This principally

resource-based economy is subject to the often erratic world prices for timber and seafood products. The uncertain nature of these markets and prices for these commodities would significantly impact borough revenues (from fluctuating Tongass Timber receipts and shared fish taxes).

The Greens Creek mine could only be artificially included in the proposed borough's economy. The mine is geographically closer to Juneau than any population centers within the proposed borough's boundaries, the mine's labor force and their dependents live in Juneau (there is no resident population at the mine site) and most of the mine's goods and services flow through Juneau (what does not flow through Juneau is shipped directly to the mine site). The Greens Creek mine now plays a significant role in the Juneau economy but generates almost no impact on the economy and population of the proposed borough. Further, the mine does not impact the lifestyles or the traditional subsistence activities of region residents.

The communities within the proposed borough are economically similar only to the extent that the seafood industry plays a part in most but not all of the communities. The Kake economy is a mix of seafood harvesting and processing, timber harvesting and subsistence. Angoon, the most traditional of the region's villages, is reliant on commercial and subsistence seafood harvesting and a small volume of tourism business. Commercial fishing and tourism account for most of what little economic activity occurs in the community of Tenakee Springs. Hoonah is a mixed economy including seafood harvesting and processing and some timber industry related activity. Pelican is a seafood processing center (though with an uncertain future as a seafood processor) and commercial fishing port. Tourism is playing an increasingly important role in Elfin Cove, traditionally a snug harbor, refueling stop and fish buying station for the troll fleet. The seafood industry has little impact on Gustavus, a community where most economic activity is tourism-related. The region's logging communities, Cube Cove, Hobart Bay, Freshwater Bay, and Eight Fathom Bight, are obviously solely dependent on the timber industry.

While these communities share common basic industries (growth in these industries is encouraged in some communities and discouraged in others), there is very little economic interaction between the communities. None of the communities serves as a service or supply center for the region (Juneau fulfills this role, as does Sitka for the southern-most communities) and in general there is relatively little freight or passenger traffic between the communities.

Regarding the social and cultural composition of the proposed borough's population, there are essentially three very different types of communities. Most of the area's population is centered in the traditional Native villages of Hoonah, Angoon, and Kake. Villages are culturally and socially related and travel is common among them. The primarily non-Native communities of Gustavus, Elfin Cove, Pelican, and Tenakee Springs account for about one-quarter of the region's population. Logging camps make up another distinct population. These sets of

communities obviously have quite dissimilar political priorities, differing attitudes about the role of local government and some fundamentally differing philosophies on development issues. These sets of communities are not socially or culturally interrelated.

Borough government expenses: Minimally, borough governments assume the mandatory powers of education and planning. The CRA draft feasibility study assumes total personnel costs of just under \$300,000 for six full-time employees, including a mayor, borough clerk, finance officer, one planner and two secretaries. Legal counsel and property assessment would presumably be contracted. This estimate of administrative employment appears low given the size and diversity of the proposed borough. Further more detailed costs estimated are probably warranted.

Based on CRA estimates, one planner, for example, would be responsible for over 14,000 square miles of land, with a mix of federal, state, local and private ownership. Federal land in the proposed borough falls under a variety of land use designations ranging from national park to wilderness to multiple use. Private lands range from huge tracts of Native corporation-held timber lands to small recreation tracts with significant to little or no development. The borough planner would face a maze of state and federal regulations that govern development on these lands. A comprehensive coastal management plan would have to be developed and implemented. A professional borough planner contacted for purposes of this review was of the opinion that no meaningful borough planning effort would be possible with only one planner.

For some of the same reasons the CRA estimate of the borough's property assessment budget appears low. The proposed borough includes thousands of acres of remote private property with highly variable values. These properties (15 remote private property locations throughout the proposed borough totaling over 3,000 parcels), many of which are accessible by charter only, will require on-site inspection approximately once every three years. Development of a valid assessment role from scratch (with the exception of Pelican which already has an assessment role developed) for this large and diverse region would almost certainly cost more than CRA's estimate of \$225,000. Consultation with an established Southeast Alaska real estate appraiser estimated that development of an assessment role would cost about \$350,000.

CRA estimates of borough education costs may also be low. The cost per student estimate of \$7,700 for the boroughs 781 students does not appear adequate when compared to the Chatham School District's FY 1988 cost of \$9,211 per ADM (per student), which would include about 40% of the borough's total enrollment, and Kake's \$9,454 per ADM (23% of the borough's total enrollment). Hoonah's costs per student was \$6,682 in FY 1988 and no data is available for Pelican (*Alaska School District Profiles and Differential Study, Volume II*). The weighted average for these districts (excluding Pelican) is \$8,457 per student. Considering that the school district

would include 11 geographically separate sites, administrative savings would probably amount to no more than salaries for a few administrative jobs. With administrative savings of \$250,000, for example, per student costs would be about \$8,140.

General comments on the feasibility study: In summary, three fundamental issues surfaced during our review of the CRA draft feasibility study. The first is the implied assumption that the population within the proposed borough was "socially, culturally and economically interrelated." Indeed this is not at the case and it may be difficult to develop a borough government that could satisfy the needs of the very different social and cultural segments within the region.

The second issue is more a philosophical issue. It is apparent from the CRA study that the Greens Creek mine would be the financial foundation for borough operations. In fact, without the tax base represented by the Greens Creek mine, borough formation would probably not be financially feasible. The unanswered philosophical question is "What justification is there for this proposed borough levying a tax on a major industrial facility such as the Greens Creek mine when the burden of servicing and supporting the mine and the mine-related population falls on another nearby borough?" A true test of the feasibility of borough formation, it would seem, would be to measure the economy that supports the population of the area—an economy that does not include Greens Creek—against the resources necessary to support borough formation and operation.

Finally, the CRA draft feasibility study may understate the cost of borough development and administration. More detailed cost analysis is warranted.

This brief critique of the CRA Chatham region borough feasibility study is not intended to downplay the importance of borough formation for many of Southeast's outlying communities. Most of these communities do not have revenue generating capacity sufficient to provide adequate local services. Further, greater control over nearby watersheds and resources, long denied many of Alaska's Native villages, is rightfully due. What is recommended, however, is more careful assessment of the costs of borough formation in this part of Southeast Alaska. It is further suggested that more careful consideration of relevant issues may reveal other more equitable solutions for establishing a financial base and granting political control to the smaller communities in Southeast.

Sincerely,



Eric McDowell
Principal



ROSS CO.

INTER AND HEATING
BOX 34241 JUNEAU ALASKA 99808
907 739-9391

*MKAD - Praman
for file/info
fu*

May 10, 1989

RECEIVED
MAY 11 1989
DEPT. OF COMMUNITY
AND REGIONAL AFFAIRS

David Hoffman
Commissioner
Alaska Dept. of Community and Regional Affairs
P.O. Box B
Juneau, AK 99811

Dear Commissioner Hoffman,

Of course I want to see Juneau prosper, my business hinges on it, but I want to go on record supporting a Chatham-Regional Borough proposal to contain the Greens Creek project, and on record as opposing Juneau's attempt to annex Greens Creek.

My reasoning is as follows:

- From a physical boundary point of view, Greens Creek in a Chatham area Borough makes sense.
- Juneau will get tax base anyway from the Greens Creek people and operations currently within the Juneau Bureau.
- For the sake of economic diversification in Southeast, and the local human needs, these little towns in Southeast need a tax base to germinate and grow. As State oil money declines, how are they going to make it if the big cities are allowed to ever expand by snapping up every juicy piece of tax base?
- Juneau already has a disproportionate share of tax base simply because the State Capitol is here.

Thank you for your consideration.

Sincerely,

Ross Writer
Ross Writer

RECEIVED

MAY 11 1989

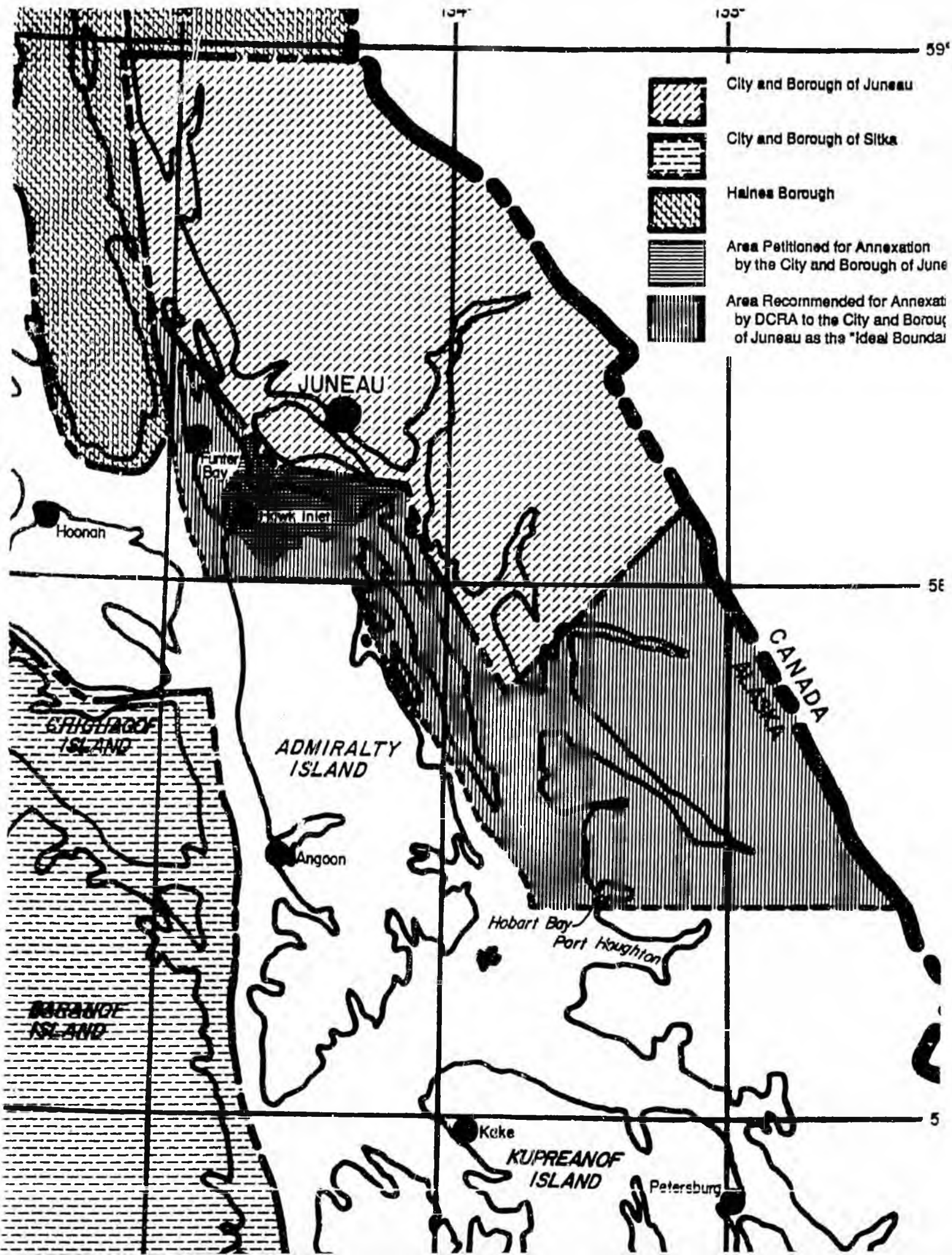
COMMISSIONER'S OFFICE
COMMUNITY & REGIONAL AFFAIRS

Div. of Municipal Affairs
1989

JUNEAU ANNEXATION/MODEL BOUNDARIES

EXHIBIT B

**MAP OF AREA PROPOSED FOR ANNEXATION BY CITY AND
BOROUGH OF JUNEAU AND DCRA RECOMMENDED IDEAL
CBJ BOUNDARIES**



59°

City and Borough of Juneau

City and Borough of Sitka

Haines Borough

Area Petitioned for Annexation
by the City and Borough of Juneau

Area Recommended for Annexation
by DCRA to the City and Borough
of Juneau as the "Ideal Boundary"

JUNEAU

Hunter Bay

Lower Inlet

Hoonah

58°

GRIGORIADOF ISLAND

ADMIRALTY ISLAND

Angoon

CANADA
ALASKA

Hobart Bay
Port Houghton

BARANOF ISLAND

57°

Keke

KUPREANOF ISLAND

Petersburg

JUNEAU ANNEXATION/MODEL BOUNDARIES

EXHIBIT C

RECOMMENDED 'IDEAL' BOUNDARIES OF THE CITY AND BOROUGH OF JUNEAU

Beginning at Eldred Rock Light in Lynn Canal at 58°58.3' North Latitude and 135°13.2' West Longitude;

Thence easterly in a straight line to Mt. Neselrode Boundary Peak Number 98 at 58°57'44.96" North Latitude and 134°18'42.03" West Longitude on the Alaska/Canada boundary line;

Thence southeasterly along the Alaska/Canada boundary line to the intersection with the southern boundary of protracted T51S, Copper River Meridian;

Thence west along the southern boundary of protracted T51S, Copper River Meridian to a point mid-channel in Stephens Passage;

Thence northerly along a course mid-channel in Stephens Passage to a point mid-channel at the mouth of Seymour Canal;

Thence northerly along a course mid-channel in Seymour Canal and west of Tiedeman and Swan Islands to a point mid-channel at the entrance to Swan Cove;

Thence northwesterly along a course mid-channel in Swan Cove to the line of mean low tide;

Thence north to 58°00'00" North Latitude;

Thence west along 58°00'00" to a point mid-channel in Chatham Strait;

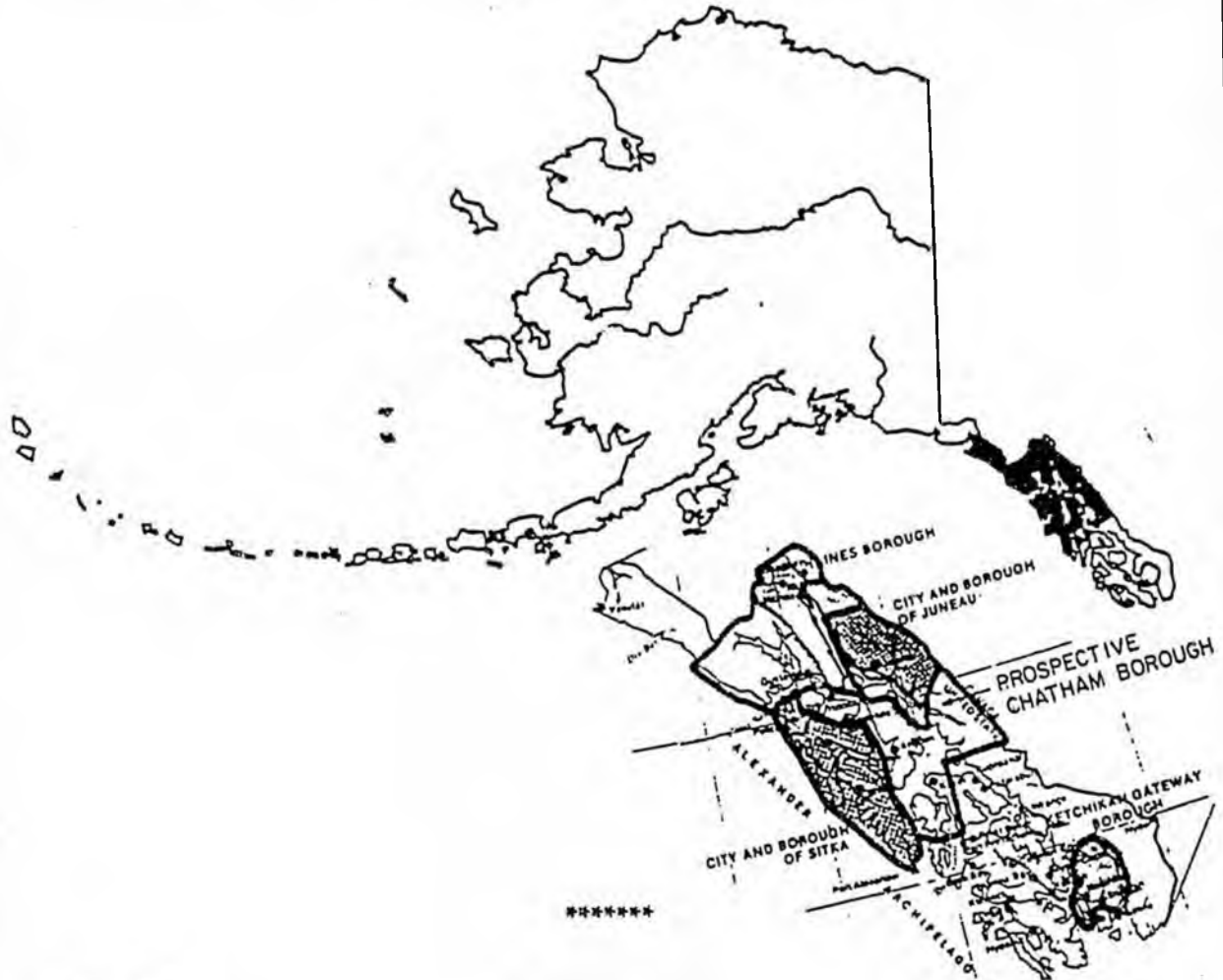
Thence northerly along a course mid-channel in Chatham Strait and continuing northerly along a course mid-channel in Lynn Canal to a point midway between Lincoln Island on the east and the mainland on the west, located at 58°30' North Latitude and 135°4.25' West Longitude;

Thence northerly in a straight line to Eldred Rock Light, the point of beginning.

Containing 6,190 square miles of territory, more or less, all in the First Judicial District, State of Alaska.

MODEL BOROUGH BOUNDARIES REVIEW
CENTRAL SOUTHEAST ALASKA

HAINES BOROUGH
CITY AND BOROUGH OF SITKA
CHATHAM UNORGANIZED BOROUGH
CITY AND BOROUGH OF JUNEAU
and
MODEL SOUTHERN BOUNDARY OF THE
PRINCE WILLIAM SOUND/YAKUTAT UNORGANIZED BOROUGH



AUGUST, 1990



STEVE COWPER
GOVERNOR

DAVID G. HOFFMAN
COMMISSIONER



MODEL BOROUGH BOUNDARIES REVIEW

SECTION IV

MODEL BOUNDARIES OF PROSPECTIVE CHATHAM BOROUGH

A. Historical Background

When the Local Boundary Commission first established the boundaries of the Greater Juneau Borough and Greater Sitka Boroughs in 1963, it deferred inclusion of Admiralty Island in either. The record reflects that the Commission determined that:

Although Admiralty Island should be included within a borough or boroughs, the Commission is of the opinion that a decision on the matter is best postponed until the Greater Sitka and Greater Juneau Boroughs are in operation and until further information on the island's relationship to the Sitka and Juneau-Douglas areas is available. (Alaska, Office of the Governor, Local Affairs Agency, Incorporation of the Greater Sitka Borough: Report to the Local Boundary Commission on a Proposal to Incorporate an Organized Borough in the Sitka Area. (July, 1963)

In 1965, the Greater Juneau Borough attempted to annex much of Admiralty Island, including the community of Angoon. The petition was denied by the Local Boundary Commission. At that time, the Director of the Local Affairs Agency stated:

Although the commission reiterates an earlier policy statement that Admiralty Island should eventually be included within a borough or boroughs, it considers annexation of Admiralty to either the Juneau or Sitka boroughs premature at this time. (Juneau Empire, 10/14/65)

The Local Boundary Commission's decision may be considered as, among other things, acknowledging the potential for borough government options for the Angoon area other than annexation to Juneau. Most recently, discussion of formation of a Chatham Borough concept was initiated by City of Hoonah with a request for a Borough feasibility study in 1988. Interest in examining the formation of a Chatham Borough developed on the part of the City of Hoonah because of several factors, not the least of which were the attractiveness of the Greens Creek Mine as a tax base and the mounting costs of basic local government services and contributions to education being borne by first class and home rule cities in the unorganized borough.

The area examined in the 1989 feasibility study encompassed most of the Chatham REAA, with the exclusion of roughly the northern one third. In addition to written

MODEL BOROUGH BOUNDARIES REVIEW

comments, public input was received through informational meetings on the draft Chatham Borough Feasibility Study conducted in Gustavus, Hoonah, Angoon, Tenakee Springs and Kake on May 30-31, 1989.

A fairly intense level of local interest in issues relating to borough formation and the proposed City and Borough of Juneau annexation of Greens Creek was evident. Similar sentiments were expressed during June 8, 1989, teleconferenced public meetings regarding the draft study which included participation from the Pelican City Council and interested residents of Elfin Cove. In general, public sentiment was opposed to borough formation along the lines of the feasibility study area.

B. Angoon Key Admiralty Island Community

The community of Angoon has traditionally sought to protect Admiralty Island from development and preserve a traditional subsistence lifestyle. Community organizations have expressed the view that the proper boundaries of Angoon include all of Admiralty Island. In a June 20, 1990 letter to the Department of Community and Regional Affairs, Frank W. Sharp, President of Kootznoowoo, Inc., reflects this view.

We here in Angoon say to Juneau, Hoonah and other off Island communities. Your communities are not contingent to Greens Creek; large bodies of water separate you from Admiralty Island.

Angoon is and has been the only City on Admiralty Island. We are the most connected to it. History shows we have been here even before Juneau was discovered.

We don't want outsiders Annexing our Island. We don't want boroughs managed by outsiders governing us or our Island.

We say if these things are to be then we should be the managers, because we have always fought to keep Admiralty Island pure, we have put our money where our mouth is defending our Island. Time and time again. (Complete text in Exhibit B.)

When the City and Borough of Juneau filed its petition to annex the Greens Creek Mine, the Angoon City Council adopted a resolution to "proceed with the formation of a borough to include the Admiralty Island in its entirety". The Angoon City Council expressed its intention to determine the boundaries of that proposed borough by the end of July, 1989. Although no petition has yet been lodged, local interest in the matter appears to persist.

MODEL BOROUGH BOUNDARIES REVIEW

Unlike the strong ties expressed between Angoon and the rest of Admiralty Island, no strong links to other communities are evident on the basis of information provided by Angoon community organizations.

Nevertheless, there are certain factors which could, at least in theory, promote consideration of borough formation by area residents in the future. As noted previously, in 1965, the City and Borough of Juneau sought annexation of much of Admiralty Island, including Angoon. The petition was rejected by the Local Boundary Commission. This rejection can be construed, at least in part, as tacit recognition of the historical independence of Angoon.

That the Angoon community's sense of historical identity and independence is still very vital is expressed in Mr. Sharp's letter of June 21. This attitude would appear inconsistent with inclusion of Angoon in a borough with either Juneau or Sitka. A regional government linking Angoon with the large, urban populations of either Juneau or Sitka would have a difficult task. To propose such a union might likely result in reaction by Angoon residents against the threat of diminution of their voting rights, actual or perceived.

C. Angoon - Hoonah - Kake Exhibit Similar Characteristics

Linking Angoon with other communities of more similar size in a looser structure would likely be more conducive to the preservation of the unique identity of Angoon than inclusion in either a Juneau or Sitka based borough.

Angoon (population 685), Kake (population 678) and Hoonah (population 894), are similar in several respects.

For example:

Each is a old, established, geographically isolated community with strong traditions of both tribal and municipal government.

In spite of their relatively small populations, each of the communities is sophisticated with respect to education programs and administration. Angoon is the administrative headquarters for the Chatham REAA. Kake and Hoonah operate their own school districts.

When examined in the context of the state as a whole, the geographic distances between Hoonah, Angoon and Kake are relatively slight.

However, as is often the case in Alaska, travel and transportation patterns orient the

MODEL BOROUGH BOUNDARIES REVIEW

communities of Angoon, Kake, and Hoonah not to each other, but to the nearest major urban centers, Juneau and Sitka.

D. Relationship of Hoonah to Glacier Bay National Park and Preserve

The area identified by the City of Hoonah for examination in the Chatham Borough Feasibility Study extended from Dry Bay to the vicinity of Kake. Included within this area is the Glacier Bay Park and Preserve.

The historical relationship of the Tlingit inhabitants of Hoonah with Glacier Bay has long been recognized.

Local legend tells of an original ancestral home in Glacier Bay, before the last glacial advance. A glacier destroyed the village, and as a result, small bands of people were forced to relocate. (Community Profile Environmental Services Limited, 1983)

While the historic and continuing relationship between Hoonah and the Glacier Bay area is noteworthy, it is essentially extraneous to the issue of borough boundaries. For instance:

The subsistence use of the area by Hoonah residents is unlikely to change regardless of which organized or unorganized borough (or boroughs) eventually encompasses the Glacier Bay Park and Preserve.

Organized or unorganized borough boundary configurations are likely to have little direct effect upon management of the Park and Preserve by the Federal Government.

As was examined in the discussion of Gustavus, current transportation patterns are such that goods and services required by Park and Preserve personnel and visitors to the area are likely to be principally supplied via communities other than Hoonah.

A relatively low level of communication and exchange is evident between Gustavus and Hoonah.

E. Recommended Chatham Unorganized Borough Boundary

Available information suggests that the Chatham Unorganized Borough should include the cities of Angoon, Hoonah and Kake.

MODEL BOROUGH BOUNDARIES REVIEW

As noted previously, the three communities exhibit similar characteristics in terms of their population sizes and long successful histories of both municipal and tribal government institutions.

Clearly, strong arguments could be made for inclusion of these communities in either the Juneau or Sitka Boroughs. However, such linkages are rendered less than optimal for the following reasons:

Both the City and Borough of Juneau and the City and Borough of Sitka are urban economies;

Inclusion of these communities in either the CBJ or CBS would not be conducive to maximum local self government to the extent that formation of a Chatham Borough would.

A map of the recommended model Chatham Borough boundaries is included in Exhibit A.

City of Kake

"HOME OF THE WORLD'S LARGEST TOTEM POLE"

P.O. BOX 500
KAKE, AK 99530
907-785-3804

RECEIVED
JUL 11 1990

Dept. of Comm. & Econ. Affairs
Div. of Municipal Affairs

July 11, 1990

Alaska Local Boundary Commission
949 East 36th Avenue
Anchorage, Alaska 99508

Dear Sir:

Reference: Juneau annexation


The citizens of Kake opposed this proposal in that the larger Cities who have hired Administrators that can spend many hours working to pick the rich plums, thereby leaving scraps for the villages such as, Angoon, Hoonah, and Kake, "Help Us"!!

It is unfair to continue to give to the wealthy while, without knowing, and understanding we in the villages keep getting the short end of the stick. We need help!! Time!! & etc. to be educated on what a borough means and learn the benefits derived from being a borough. Help us!!

Therefore, I must protest in the most severe manner that the iceworm villages are ending up as potential "Wards of the State". Help us!!

The State of Alaska and DCRA has not done a proper job in emphasizing the importance, and education our native people on how important it is, and what effect this has upon us. Help us!!

Sincerely,


Lonnie Anderson, Mayor
City of Kake

CC: Peter Goll, Representative,
Richard Eliason, Senator

RECEIVED
JUN 5 1989

June 2, 1989

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

Gene Kane
Local Government Specialist
Dept. of Community & Regional Affairs
949 E. 36th Ave., Suite 406
Anchorage, Alaska 99508

Dear Mr. Kane,

At a special meeting held on May 31, 1989 the council of the City of Angoon passed a motion to "proceed with the formation of a borough to include the Admiralty Island in it's entirety."

This action is a follow-up to the previous Resolution sent to the Local Boundry Commission. There should not be any annexation of any portion of Admiralty Island allowed.

During the next 60 days the council of the City of Angoon will be reviewing the boundaries to be included in the petition for the borough formation.

We will keep you posted as the petition developes.

Sincerely yours,


Edward J. Gamble, Sr.
Mayor

cc: Sen. Dick Eliason
Rep. Peter Goll
Peter Freer, Supervisor
Community & Regional Affairs

eg:ak

RESOLUTION NO. 89-06

RESOLUTION FOR THE LOCAL BOUNDARY COMMISSION.

WHEREAS, The City of Angoon has been included in the Chatham Borough Study without the request of the Council of the City of Angoon, and

WHEREAS, The City of Juneau is proposing to annex a portion of Admiralty Island during the upcoming Legislative Session, and

WHEREAS, The City of Angoon has been working on a study that involves the Western Shores of Admiralty Island or the entire Admiralty Island, and

WHEREAS, The study of the Chatham Borough and the proposal by the City and Borough of Juneau is directly in conflict with the interests of annexation of Admiralty Island by the only community located on the Island, and

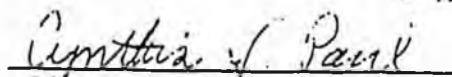
WHEREAS, The City of Angoon is involved with the Department of Community and Regional Affairs on a Borough Study and annexation of Western portion of Admiralty Island,

NOW THEREFORE BE IT RESOLVED: that the City of Angoon strongly urges the Local Boundary Commission not to accept or approve any annexation proposals, prior to the presentation by the Council of the City of Angoon, on lands located on Admiralty Island.

Passed and approved by the Angoon City Council this May 17, 1989 by a vote of 5 Yeas, 2 Nays, 2 Absent, 2 Abstain.

For the City of Angoon


Mayor

ATTEST: 
City Clerk

SEAL



KOOTZNOOWOO, INC.

P.O. Box 116 - ANGOON, ALASKA 99820 - PHONE: 907-788-3571 - FAX: 907-788-3892

June 20, 1990

Dept. of Community & Regional Affairs
949 E 36th Avenue Suite 400
Anchorage, AK 99508-4302

RECEIVED
JUN 20 1990
Dept. of Comm. & Reg. Affairs
Div. of Municipal & Reg. Asst.

Dear Sir:

The Juneau City Assembly has decided to go ahead with plans to Annex Lands surrounding the Greens Creek Mine on the North End of Admiralty Island.

Isn't that kind of them? Since it has been reported that this action could bring in an additional \$300,000. - 400,000. Annually to the Juneau City Coffers through taxes on Greens Creek Revenues. This money in addition to the substantial revenues from the 200-300 Mine Employees and their families who live in Juneau.

Assembly members and others Cite some of the reasons for pushing for the annexation or Borough formation of the Greens Creek Area as the tremendous expenses to the City of Juneau in Providing Public Services to all of those new residents. Poor Juneau, having to put up with a multi-million dollar mine in the area with 200-300 new people who are renting/buying/shopping in Juneau stores.

Their supposed reasons for Annexation is that Juneau is the Base of manpower supply and services for Greens Creek.

If that criteria had been used to determine qualifying for annexation we would all now be within the Seattle City Boundaries. We lifelong Alaska Residents know that for as long as anyone can remember the vast majority of the workforce in Alaska, the Commerce and Transportation Systems have primarily originated out of Seattle and still do.

I think the Juneau Chamber of Commerce and the Juneau Assembly have forgotten that just a few short years back when the Capital move was the big issue how the small communities of Southeast Alaska fought to keep the Capital in Juneau. Ask yourselves what the Economy of Juneau would have been if that effort had been successful?

Dept. of Community & Regional Affairs
June 21, 1990
Page Two

Ask yourselves and investigate how it came about that the Employee's of Greens Creek have to live in Juneau and be transported to and from work. You will find that Angoon and the Environmental Community's opposition to Commercial Development on Admiralty Island played a major part in achieving that Agreement so as to lessen the effects of the Mine and its employee's on the wilderness of Admiralty Island.

Angoon again true to form chose their subsistence way of life and in part because of this Juneau benefited through Angoon's efforts to keep Admiralty Island the Jewel of Southeast.

But obviously that effort was not enough. Juneau's Economy got a Big boost by getting all of the Greens Creek Employee's and Commerce and now Juneau wants the rest of the pie.

We here in Angoon say no way! Keep your cotton pickin hands off of Admiralty Island!

We here in Angoon say to Juneau, Hoonah and other off Island Communities. Your communities are not contingent to Greens Creek; large bodies of water separate you from Admiralty Island.

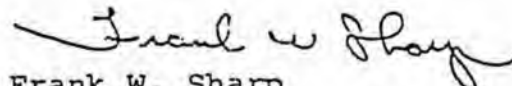
Angoon is and has been the only City on Admiralty Island. We are the most connected to it. History shows we have been here even before Juneau was discovered.

We don't want outsiders Annexing our Island. We don't want boroughs managed by outsiders Governing us or our Island.

We say if these things are to be then we should be the managers, because we have always fought to keep Admiralty Island pure, we have put our money where our mouth is defending our Island. Time and time again.

An old Tlingit Legend translates into English "All who come are welcome, but don't break the dish".

Sincerely,



Frank W. Sharp
President

File: FS0629

CITY of HOONAH

P.O. Box 360
Hoonah, Alaska 99829
(907) 945-3663

CCR-89-13

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF HOONAH, ALASKA
OPPOSING THE PROPOSAL BY THE CITY AND BOROUGH OF JUNEAU TO ENCOMPASS
THE GREEN'S CREEK MINE WITHIN THEIR BOUNDARIES THROUGH THE ANNEXATION
PROCESS.

WHEREAS, the interest in borough formation stems from the pressure of HE 1 and the awareness that borough formation might provide opportunities to effectively cope with recent and continuing decreases in state and federal aid to local governments; and

WHEREAS, in February of 1988 the City of Hoonah by resolution requested the Department of Community and Regional Affairs to study the feasibility of forming a borough from Dry Bay, south of Yakutat to kake; and

WHEREAS, among those unincorporated areas included in the study's boundaries is the Green's Creek Mine which would provide for nearly half of the tax base of the proposed borough; and

WHEREAS, we do not feel that it is fair for existing boroughs to seize, through the annexation process, those potential areas that would make borough formation feasible for the unincorporated communities showing interest in such borough formation.

NOW, THEREFORE BE IT RESOLVED that the City Council of the City of Hoonah opposes the proposal by the City and Borough of Juneau to encompass the Green's Creek Mine within their boundaries through the annexation process and strongly urges that the Boundary Commission do not approve the City and Borough of Juneau's petition to annex the Green's Creek Mine within their boundaries at this time.

PASSED AND APPROVED this 20th day of June, 1989.

VOTES: 5 Yeas 0 Nays 0 Absent

Liv C. Gray
Liv C. Gray, Mayor

ATTEST:
Sharon A. Parks
Sharon A. Parks, City Clerk



Goldbelt

GOLDBELT PLACE, SUITE 300 / 801 W. 10TH STREET / JUNEAU, ALASKA 99801

TELEPHONE:
BUSINESS OFFICE: (907) 463-4846
TELEFAX: (907) 463-4856

1

COMMENTS BY GOLDBELT, INC.
ON REPORT AND RECOMMENDATION
TO THE LOCAL BOUNDARY COMMISSION
CONCERNING INCLUSION OF HOBART BAY
WITHIN THE IDEAL BOUNDARIES
OF THE CITY AND BOROUGH OF JUNEAU
JULY 13, 1990
JOSEPH G. WILSON
PRESIDENT & CEO

I am the president and chief executive officer of Goldbelt, Inc. Goldbelt owns approximately 27,000 acres of land in the Hobart Bay area, which is 70 miles south of Juneau. I am here to testify against the inclusion of Hobart Bay within the ideal boundaries of the city and borough of Juneau. I have reviewed the report from the Department of Community and Regional Affairs to the Local Boundary Commission and I do not believe that the facts support the conclusions of the DCRA. As a result, this Commission should not adopt those conclusions; at the very least, it should examine the premises upon which the DCRA's report is based.

The report relies on a letter from the City Manager of Juneau that contains some dubious assumptions and some outright errors. For example, the letter claims that the CBJ supplies emergency services to the area south of the current borough boundaries. What does this mean? Certainly CBJ does not provide fire or police protection services to Hobart Bay. In the past five years, there have been three emergency trips from Hobart Bay to Juneau for medical purposes. While this is undoubtedly a benefit to the residents of

Hobart Bay, three trips over five years hardly constitutes the kind of social and economic integration that would justify annexation.

The community at Hobart Bay has two of its own Emergency Medical Technicians. Most medical problems can be dealt with without an airlift to Juneau. We all appreciate that when there is a medical emergency in Southeast, help can be found here in town. But this does not mean that Angoon, Gustavus, Hobart Bay, or any of the small towns and villages that look to Juneau for emergency care should all be added to the City and Borough of Juneau. Providing occasional emergency health care is not a sufficient reason for incorporating any of these outlying areas into the City and Borough of Juneau.

The letter from the City Manager also notes that Juneau-based commercial operators transport goods and people to Hobart Bay. That is true, but so do Ketchikan, Petersburg, and the Seattle-based commercial operators. In fact, about 50% of the supplies barged in to Hobart originate in Ketchikan. Another 10% are brought in from Petersburg. Juneau is not the only source - or even the most important source -- of supplies for Hobart Bay. Petersburg is only 40 miles from Hobart, while Juneau is 70 miles away. The City Manager and the Department of Community and Regional Affairs ignore these geographical facts when they claim that Hobart Bay is more socially and economically integrated with Juneau than with any other region.

Finally, the City Manager has some fundamental misunderstandings about the situation at Hobart Bay. He says, and I quote, that "A Juneau-based

corporation, Goldbelt, conducts logging activities in Windham Bay and Hobart Bay." This statement is wrong in two respects. First of all, there is no logging under way at Windham Bay. Second, Goldbelt is the landowner at Hobart. The logging of our timber is being carried out by Klukwan Forest Products, a corporation that is based in Haines, Alaska. In addition, some timber rights are held by ITT-Rayonier, a Delaware corporation. Despite these connections, neither the town of Haines or the state of Delaware have attempted to annex Hobart Bay.

The City Manager's letter is therefore a poor basis for decision making. It was a mistake for the DCRA to adopt the CBJ's conclusory and misinformed reasons as a warrant for the expansion of the Borough, and it would be a mistake for the Boundary Commission to compound this error. Letting the CBJ determine what area is appropriate to annex is backwards logic. Instead, the Commission should listen to the needs of those who live on and own property in the areas that will become part of the proposed borough.

Goldbelt, which will be directly affected if the CBJ annexes some 27,000 acres of its land at Hobart Bay, objects to the scope of the "model borough" created by the Department. Boroughs should be composed of people with common interests who are socially and economically integrated. Hobart Bay does not have these common interests and it should not be forced into the boundaries of an expanded City and Borough of Juneau.



SOUTHEAST
ISLAND
SCHOOL
DISTRICT

1621 TONGASS AVENUE SUITE 301
POST OFFICE BOX 8340
KETCHIKAN, ALASKA 99901
1907 225-9658 OR 225-9659

Robert Weinstein
SUPERINTENDENT

RECEIVED
JUL 02 1990

June 28, 1990

Dan Bockhorst
Department of Community and Regional
Affairs
949 East 36th Avenue, Suite 400
Anchorage, Alaska 99508-4302

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

Dear Mr. Bockhorst:

We recently received a copy of an Alaska Local Boundary Commission document entitled "Model Boundaries Study, Southeast Island/Ketchikan Regions."

Of interest in the document was a map on page B-2 which, among other things, shows "ideal" boundaries of a proposed Chatham Borough. I have been directed by the Southeast Island School District Board of Education to express concern regarding, and object to, the southern boundary of the proposed Chatham Borough as shown on this map.

In the Chatham Borough feasibility study dated August, 1989, the study area of the proposed borough was, at its southern end, similar to the existing boundary between the Chatham and Southeast Island school districts, with the exception that Kake and a certain adjacent area at the north end of Kupreanof Island were to be included in the Chatham Borough. In the map referenced above in the Southeast Island/Ketchikan Regions document, there is boundary shift south of Kake which incorporates a fairly large area which is currently part of Southeast Island School District, and which includes Rowan Bay, one of our communities.

In a conversation with a member of your staff, I was advised that the reason for this change was due to subsistence activities by Kake residents in this area. While I have no personal knowledge of the area which Kake residents use for subsistence activities, I find it very difficult to believe that the entire area outlined south of Frederick Sound on the map is used for those purposes on any kind of regular basis. Also, if an area of that size is deemed to be appropriate for subsistence activities for one community, it seems to me that there are going to be significant problems when you look at similar areas for subsistence activities for other communities within our boundaries, such as Port Alexander, Point Baker, and Port Protection, from which residents probably engage in subsistence activities in the above referenced area.

Furthermore, it seems to me that people in Kake will continue to use whatever area they have traditionally used for subsistence, irrespective of any artificial boundaries established by the State for governance. Therefore, while I do appreciate the importance of subsistence to residents of many communities in this and other parts of the State, I am not sure that subsistence use is an appropriate consideration for the drawing of borough boundaries.

Of more concern to me as Superintendent of Southeast Island School District is the apparent process which the Department has used. Since the issuance of the Chatham Borough Feasibility Study in August, 1989, to my best knowledge this school district has had no contact from the Department of Community and Regional Affairs regarding a significant change in boundaries which affects this school district, several communities which are within this school district, and a possible future borough in southern Southeast Alaska. I suspect that, if we have not been contacted, there has been a similar

lack of contact with the communities of Port Alexander, Port Protection, Point Baker, Rowan Bay, and other persons and corporations which might have an interest in the proposed boundaries. In any case, I am requesting that the Department review its process so that there is regular communications with all those who will be affected by such proposals.

Sincerely,



Robert Weinstein
Superintendent

RW:CM

c: Board Members
City of Port Alexander
Port Protection Community Association
C. B. Bettisworth

SHEE ATIKA, INCORPORATED

330 SEWARD STREET - ROOM 207
SITKA, ALASKA 99835
PHONE (907)747-3534
or 747-3539
FAX (907)747-5727

January 17, 1990

CB Bettisworth
Alaska Local Boundary Commission
949 East 36th Avenue, Suite 404
Anchorage, Alaska 99508

RE: Proposed Chatham Borough

Dear Mr. Bettisworth:

Let me say that Shee Atika, Incorporated appreciates the opportunity to comment on the proposed Chatham Borough in Southeast Alaska. For your information Shee Atika, Incorporated is the urban Native Corporation for Sitka and we own 23,000 acres on Admiralty Island which would be situated within this Borough if it were to be created.

A logging community of approximately 200 residents has grown around the logging operations on our land at Cube Cove, Admiralty Island. This community is essentially self sufficient having its own school, church, utilities, post office and telephone. There is very little that a Borough could offer this community, but a great deal that could be taken away.


We can not support this borough unless we can be convinced that a borough government could in some way benefit our land holdings on Admiralty. We are not enamored with the idea of facing possible property and sales tax on our operations. This would do nothing but harm our development of this property without any foreseeable benefit to us.

I have encouraged the residents of Cube Cove to comment on this proposal so hopefully you will be hearing from them soon.

Again, thank you for the opportunity to comment, and please keep us informed as to future developments.

Sincerely,

SHEE ATIKA, INCORPORATED



Dennis J. Girardot
Administrative Manager

Dept. of Community & Regional Affairs
June 21, 1990
Page Two

Ask yourselves and investigate how it came about that the Employee's of Greens Creek have to live in Juneau and be transported to and from work. You will find that Angoon and the Environmental Communitys opposition to Commercial Development on Admiralty Island played a major part in achieving that Agreement so as to lesson the effects of the Mine and its employee's on the wilderness of Admiralty Island.

Angoon again true to form chose their subsistence way of life and in part because of this Juneau benefited through Angoons efforts to keep Admiralty Island the Jewel of Southeast.

But obviously that effort was not enough. Juneaus Economy got a Big boost by getting all of the Greens Creek Employee's and Commerce and now Juneau wants the rest of the pie.

We here in Angoon say no way! Keep your cotton pickin hands off of Admiralty Island!

We here in Angoon say to Juneau, Hoonah and other off Island Communities. Your communities are not contingent to Greens Creek; large bodies of water separate you from Admiralty Island.

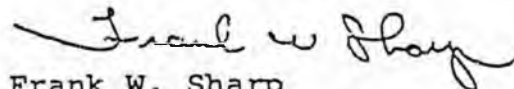
Angoon is and has been the only City on Admiralty Island. We are the most connected to it. History shows we have been here even before Juneau was discovered.

We don't want outsiders Annexing our Island. We don't want boroughs managed by outsiders Governing us or our Island.

We say if these things are to be then we should be the managers, because we have always fought to keep Admiralty Island pure, we have put our money where our mouth is defending our Island. Time and time again.

An old Tlingit Legend translates into English
"All who come are welcome, but don't break the dish".

Sincerely,



Frank W. Sharp
President

File: FS0629

Gustavus Community Association

P.O. Box 62
Gustavus, Alaska 99826

Rec'd
1/16/90
DB

January 6, 1990

C.B. Bettisworth, Chairman
Local Boundary Commission
949 F. 36th Ave., Suite 404
Anchorage, AK 99508

Dear Mr. Bettisworth,

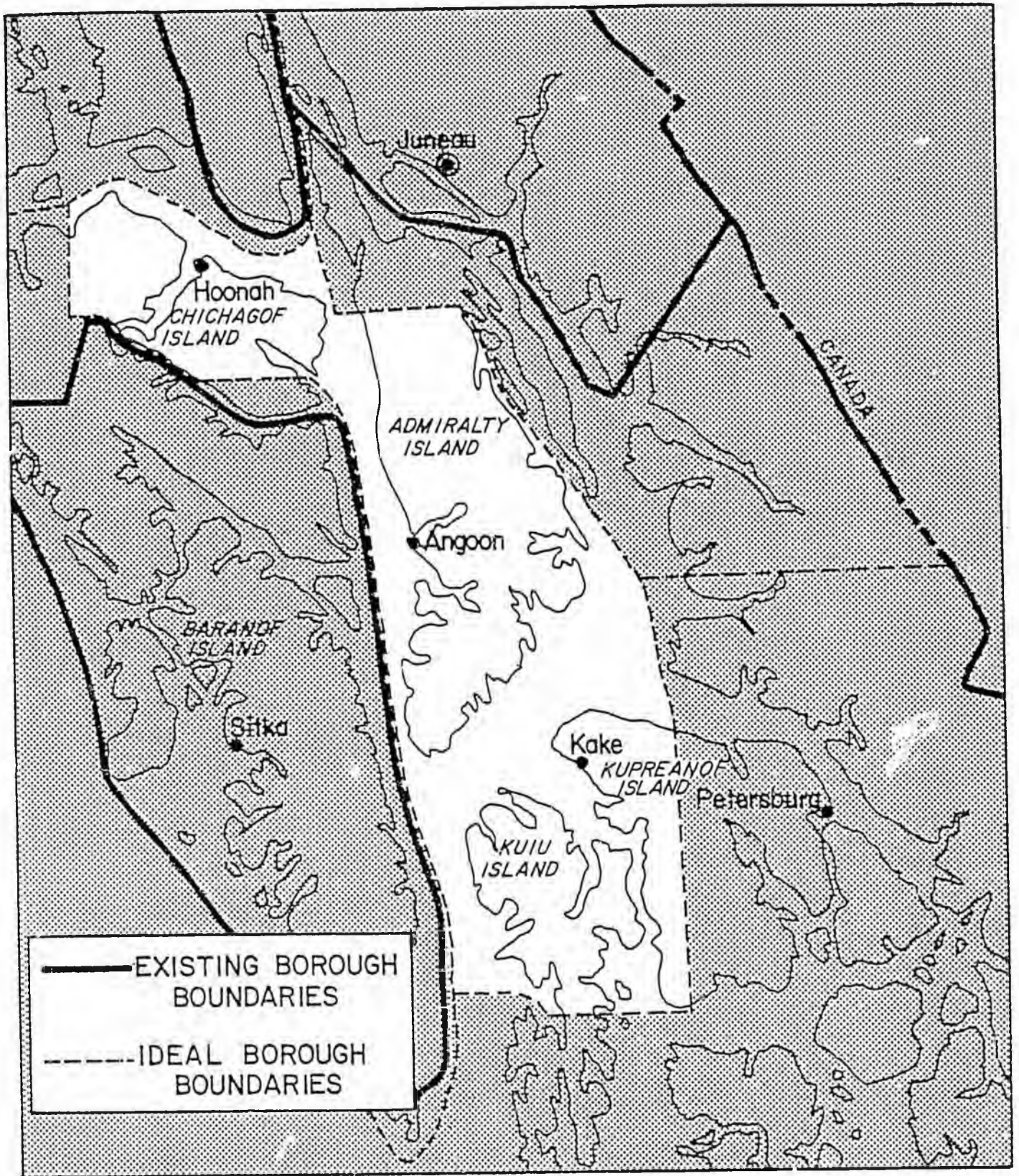
Enclosed please find our response to your request for "model" borough boundaries resulting from a Gustavus Community Association meeting held on January 4, 1990.

This response echos sentiment expressed by the community last May on two separate occasions: 1) when a petition and letter were forwarded to Gene Kane, Community & Regional Affairs, Anchorage, on May 9, 1989, and 2) when signatures of Gustavus residents were gathered at a meeting conducted on May 30, 1989, by Gene Kane, C&RA. (See enclosures.) Although part of these communications dealt only with the proposed Chatham Area Borough, the Gustavus Community Association remains opposed to Gustavus being included in any borough.

Best regards,

Ann E. Mackovjak
Ann E. Mackovjak
GCA Executive Secretary

Enclosures



59°



City and Borough of Juneau



City and Borough of Sitka



Haines Borough



Area Petitioned for Annexation by the City and Borough of Juneau



Area Recommended for Annexation by DCRA to the City and Borough of Juneau as the "Ideal Boundaries"

JUNEAU

Furber Bay

Hawk Inlet

Hoonah

58°

CHIGLAGOF ISLAND

ADMIRALTY ISLAND

CANADA
ALASKA

Angoon

Hobart Bay
Port Houghton

BARANGOF ISLAND

57°

Kake

KUPREANOF ISLAND

Petersburg

STATE OF ALASKA
LOCAL BOUNDARY COMMISSION

IN THE MATTER OF THE ANNEXATION)
OF THE GREENS CREEK MINE AND)
SURROUNDING TERRITORY TO THE CITY)
AND BOROUGH OF JUNEAU)
_____)

AFFIDAVIT OF CLIFF DAVIS

STATE OF ALASKA)
 :
FIRST JUDICIAL DISTRICT)

I, Cliff Davis, being first duly sworn, under oath, do depose and state as follows:

1. I have been involved in the mining industry for 27 years. I have been the Manager of Greens Creek Mine, operated by KGCMC for 1.5 years.

2. The CBJ is not presently providing municipal services to the mine and there is no need for such services. The mine provides all of its own support services, including emergency medical treatment. There has never been a need for use of police assistance at the mine area. Were such a need to arise, our plan calls for flying in State Troopers from Juneau. Support services for employees in Juneau are paid for by property taxes paid for by our employees in the CBJ.

3. The Greens Creek Mine is not currently profitable and will not be profitable under current circumstances. In order for the mine to become profitable, the worldwide prices of zinc, lead and silver must go up substantially. Alternatively, expanding the size of the mill and mine operations to an optimum level may improve profitability.

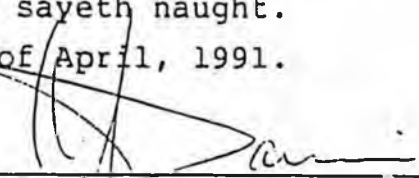
4. Since KGCMC can do nothing about the world market price for lead, zinc and silver, it is evaluating the potential of expanding the mill and the mine. This will require an increased capital expenditure at a time when the mine is already unprofitable. The added tax and regulatory burdens which annexation would cause could jeopardize the willingness of KGCMC to go forward with such an expansion project.

5. Because the world prices for lead, zinc and silver have dropped so low, and because it is unlikely that the mine will be profitable in 1991, or 1992, on April 5, 1991, we asked the employees of KGCMC to take an across the board pay cut of approximately 10%.

6. I have read the draft recommendation on the proposal to defer the effective date of the annexation of the Greens Creek Mine prepared by the Department of Community and Regional Affairs. No one in the Department has consulted with me regarding the economic situation of the Greens Creek Mine. I know of no basis for the statement of Warren Meyers from Merrill Lynch & Company in New York set forth in the Anchorage Times article of February 25, 1991 cited at page 6 of its draft for the proposition that Greens Creek "is nicely in the black ink." I have no knowledge of the "reports" referred to by the Department at page 6 of the draft.

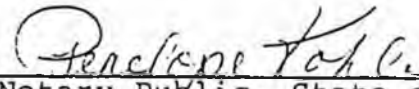
FURTHER YOUR affiant sayeth naught.

DATED this 15th day of April, 1991.



Cliff Davis

SUBSCRIBED and SWORN to before me this 15th day of April, 1991.



Notary Public, State of Alaska
My commission expires: 11/14/94

STATE OF ALASKA
LOCAL BOUNDARY COMMISSION

RECEIVED

FEB 11 1991

1
2
3 IN THE MATTER OF THE ANNEXATION)
4 OF THE GREENS CREEK MINE AND)
5 SURROUNDING TERRITORY TO THE CITY)
6 AND BOROUGH OF JUNEAU)

DEPT. OF COMM. & REG. AFFAIRS
DIV. OF MUNICIPAL & REG. ASST.

ANSWERING BRIEF OF GREENS CREEK MINING COMPANY

INTRODUCTION

8 On November 10, 1990, the Local Boundary Commission (LBC)
9 granted Kennecott Greens Creek Mining Company's (KGCMC's) request
10 that the LBC reconsider its September 6, 1990 and October 8, 1990
11 decisions rejecting the City and Borough of Juneau's August request
12 to defer the effective date of the annexation of Greens Creek until
13 January 1, 1994. The LBC limited reconsideration to the sole issue
14 of whether to defer the effective date of the CBJ annexation.

GREENS CREEK'S POSITION

15
16 KGCMC supports the CBJ's request for a deferred effective
17 annexation date of January 1, 1994, and urges that this request be
18 granted.

19 The LBC has broad legal authority to accomplish
20 annexations under its general grant of authority "to consider any
21 proposed boundary change" under Article X sec. 12 of the Alaska
22 Constitution. This broad power allows the LBC to assist a local
23 government by tailoring an annexation to meet the specific needs of
24 the community. The LBC has used this authority in two other
25 situations to delay or condition the effective dates of local
26 government petitions based on the factual circumstances facing the
communities:

ROBERTSON, MONAGLE & EASTAUGH, P.C.
COURT PLAZA BUILDING, SUITE 800
240 MAIN STREET
P.O. BOX 21211, JUNEAU, ALASKA 99802
PHONE (907) 586-3340

1 (1) In 1984, the LBC approved the delay requested in the
2 annexation petition of the City of Haines for two years contingent
3 on the holding of an election for the unification of the Borough of
4 Haines and City of Haines. The city found it prudent to defer
5 annexation to await the results of the election before completing
6 the annexation.

7 (2) In 1985, the LBC approved a petition for detachment
8 of an area from the North Slope Borough contingent on the
9 organization of a newly-formed adjacent borough in the NANA region.
10 There, the local government needed the assurance that it would have
11 an adequate and necessary land base to finance its government.
12 In each case, the LBC sought advice from the Department of Law
13 (DOL) which advised the LBC that based on the LBC's broad
14 constitutional authority, it could approve a petition with a
15 delayed effective date.

16 Not only does the authority exist to defer annexation, it
17 is good public policy to meet the needs of a local community in an
18 annexation as expressed by local government. The Public Services
19 Administration, hired by the then newly-formed State of Alaska to
20 offer guidance on the structure of state government stated:

21 "[The LBC] determinations should be based, not only
22 upon a careful assembling and weighing of relevant
23 geographic, demographic, fiscal and governmental
24 facts, but also with due regard to expressions of
25 judgment and sentiment by the public officials and
26 citizens most directly concerned."

"Local Government Under The Alaska Constitution," Public
Administration Service.

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1 Approval of the deferred effective date requested in this
2 case would serve a valid public purpose on a statewide level and
3 also meet the economic needs of the City and Borough of Juneau.
4 The CBJ has made a carefully considered analysis of what would be
5 good for the community in terms of Juneau's and Greens Creek's
6 future economic viability. The LBC's decision should also reflect
7 the community's judgment on this issue.

8 Furthermore, the Department of Community and Regional
9 Affairs (DC&RA) has fully researched the issue of whether the
10 Greens Creek Mine meets the statutory standards for annexation to
11 the CBJ. In its recommendation to the LBC, the DC&RA stated that
12 no other community has the social, economic, cultural and
13 geographic ties to the mine as does the CBJ. Since no other
14 community could meet the standards, deferring the effective date of
15 this annexation would not lock up parts of the unorganized borough
16 any more than an immediate annexation. Therefore, there is no harm
17 caused to the state by a deferred effective date.

18 CONCLUSION

19 The LBC has the authority to approve the CBJ's request
20 for a deferred effective date. In the past, the LBC has exercised
21 its discretion to meet the specific needs of local communities. In
22 this case both the CBJ and Greens Creek are in agreement as to
23 whether an annexation should occur and when it should be effective.
24 This is rarely the case in the annexation process.

25
26

STATE OF ALASKA
LOCAL BOUNDARY COMMISSION

STATEMENT OF DECISION

IN THE MATTER OF THE ANNEXATION)
OF THE GREENS CREEK MINE AND)
SURROUNDING TERRITORY TO THE)
CITY AND BOROUGH OF JUNEAU)

SECTION I
BACKGROUND

On May 25, 1989, the Assembly of the City and Borough of Juneau (CBJ) adopted Resolution No. 1382 authorizing the submission of a petition for the annexation of approximately 140 square miles. The area authorized for annexation included the Greens Creek Mine on Admiralty Island.

The CBJ's annexation petition was filed with the Department of Community and Regional Affairs (DCRA) on June 1, 1989. Six days later, the Local Boundary Commission (LBC) announced that it had postponed consideration of all pending proposals for borough annexation and incorporation. The postponement was to allow the LBC the opportunity to develop a boundary guideline map which identifies 'ideal' or 'model' boundaries for existing and potential future boroughs throughout Alaska.

Following a review of the petition, DCRA notified CBJ officials on July 7, 1989 that the form and content of the petition were in substantial compliance with applicable laws.

Notice of filing of the petition was published in the August 4, 11, and 18, 1989 editions of the Juneau Empire, the Petersburg Pilot, the Sitka Sentinel and the Wrangell Sentinel. In addition, DCRA sent a copy of the notice of filing to 162 potentially interested parties and also arranged for publication of the notice in the Alaska Administrative Journal.

On April 12, 1990 DCRA released its draft report and recommendation concerning the proposed annexation and ideal boundaries for the CBJ to 258 interested parties. Public comments on the report were accepted over a period of more than 5 weeks.

On June 22, DCRA distributed its final report and recommendation on the proposed annexation and model boundaries for the CBJ to 207 individuals. Included were three informational brochures concerning the proposed annexation and model boundaries.

DCRA recommended in its final report that the annexation be approved on the condition that the area be expanded to encompass all of the territory within the CBJ's ideal boundaries. The ideal boundaries identified by DCRA extended to Hobart Bay on the mainland and included the Glass Peninsula and other areas on Admiralty Island. DCRA recommended that the area to be annexed be expanded from 140 square miles to more than 2000 square miles.

The LBC scheduled a hearing on the annexation petition and CBJ model boundaries for July 13, 1990 in Juneau. Arrangements were made to allow residents of the communities of Angoon, Hoonah, Kake and Petersburg to participate in the hearing via teleconference.

Notice of the hearing was published in the Juneau Empire on June 12, June 20, June 26, July 3 and July 11, 1990. Notice was also published in the Alaska Administrative Journal. In addition, copies of the notice were mailed to 232 individuals.

STATEMENT OF DECISION
CBJ ANNEXATION
PAGE TWO

On July 13, the Assembly of the CBJ adopted a motion to withdraw its annexation petition. This action was taken approximately 6 hours prior to the time of the scheduled hearing by the LBC.

Notwithstanding the action of the CBJ Assembly, the LBC proceeded with the hearing on the proposed annexation and the CBJ model boundaries on the basis that: 1) extensive notice of the hearing had been given; 2) the petition had been pending before the LBC for more than one year, as such it was anticipated that many individuals in Juneau and surrounding communities had spent considerable time and effort preparing for the hearing and that they would prefer to express their positions on the matter to the LBC at a formal proceeding; 3) the CBJ Assembly may have acted hastily in its attempt to withdraw the petition due to a concern that the recommendation of DCRA for the expansion of the territory proposed for annexation would be approved by the LBC; 4) there is no mechanism set out in statute or regulation by which a petitioner may unilaterally "withdraw" a petition submitted to the LBC.

Although teleconference facilities were available in Petersburg and Hoonah, no one from those communities participated at the hearing. Residents from Angoon and Kake did, however, testify at the hearing via teleconference.

On July 14, the LBC adopted a motion to approve the annexation of the 140 square mile area requested in the CBJ petition on the condition that the CBJ Assembly rescind its withdrawal of the petition. The motion was approved by a vote of four to one. Commissioner Cotten cast the dissenting vote. Subsequently, Commissioner Cotten requested that the basis for his dissenting position on the matter be expressed in this Statement of Decision (see Section III).

On August 20, 1990, the CBJ Assembly adopted Resolution No. 1462 (Substitute) which reinstated the CBJ's annexation petition subject to the condition that the LBC defer the effective date of the annexation to January 1, 1994.

On September 6, 1990, the LBC voted unanimously to reject the request of the CBJ Assembly to defer the effective date of the annexation until January 1, 1994. In a separate motion which was also adopted unanimously, the LBC established September 22, 1990 as the deadline for CBJ Assembly concurrence with an effective date of March, 1991 in accordance with Article X, Section 12 of the Constitution of the State of Alaska; otherwise the petition was to be denied.

To the extent that the proposed deferred effective date would be an amendment to the petition, the significant effects of such an amendment would have been limited to the financial interests of the Greens Creek Mine, the City and Borough of Juneau and the State of Alaska. Not only were officials of the Greens Creek Mine and the CBJ aware of the proposed amendment, they worked cooperatively in the development of the request for the deferred effective date. According to the testimony attached to Kevin Ritchie's letter of August 22, Cliff Davis noted:

We have been working with Deputy Mayor Davidson, the Mayor and others since that time to work out a response to the LBC which would achieve the original purposes for which annexation was sought, but avoid the problems which caused us to request

withdrawal on July 13. I am pleased to report that we have been able to achieve a satisfactory conclusion to this matter through the efforts of Mr. Davidson. We understand that he will move tonight to condition annexation upon the LBC's acceptance of a January 1, 1994 operative date for the annexation.

Officials of the Greens Creek Mine and the CBJ were aware that the request for the deferred effective date would be considered by the LBC on September 6. Indeed, Mr. Jim Hall, Assistant Manager for the CBJ was present at that meeting. Mr. Jim Clark, Attorney for the Greens Creek Mine, provided written comments for consideration by the Commission at that meeting. Mr. Clark's comments supported the proposal to defer the effective date and concluded with the statement "we urge the LBC to accept the resolution as submitted by the CBJ".

The basis for the LBC's action on the request for the deferred effective date is outlined in Section IV of this Statement of Decision.

On September 17, James F. Clark, Attorney for the Greens Creek Mine, notified the LBC that he would seek reconsideration of the LBC's decision not to defer the effective date of the annexation. Later that same day, the CBJ Assembly adopted Resolution No. 1469 agreeing to the March, 1991 effective date on the condition that the LBC deny the anticipated request for reconsideration by the Greens Creek Mine officials.

On September 22, 1990, the LBC adopted a motion stating that the action taken by the CBJ Assembly through Resolution No. 1469 satisfied the terms stipulated by the LBC on September 6 and that the petition would move forward. The motion was adopted by a vote of 4 to 1. Commissioner Cotten again cast the dissenting vote.

SECTION II FINDINGS AND CONCLUSIONS OF COMMISSION MAJORITY

Based upon the evidence before the Commission, including but not limited to, the petition for annexation to the CBJ, the testimony given at the hearing conducted by the Commission on the proposed annexation and CBJ model boundaries, the report and recommendations of the Department of Community and Regional Affairs and written comments from interested parties, the Commission makes the following findings and conclusions.

Conclusion Number One

The area is in need of municipal services which the CBJ can provide more efficiently than another municipality or the State. Thus, the standard set out in 19 AAC 10.190(a)(3) is satisfied. This conclusion is based upon the following findings.

While the area has no permanent residents, it is a major industrial site in close proximity to Juneau. More than 200 individuals reportedly work at the Greens Creek Mine. All of these individuals are believed to reside within the boundaries of the CBJ.

The CBJ would provide the following direct services to the area upon annexation:

- ° emergency police services (offered in a limited capacity and only in emergencies);

STATEMENT OF DECISION
CBJ ANNEXATION
PAGE FOUR

- ° search and rescue;
- ° emergency medical services;
- ° planning, zoning and coastal management;
- ° tax assessment and collection; and
- ° building inspection.

In addition, services delivered by the CBJ in other locations, but available to the workers in the annexed area include:

- ° Juneau public school system;
- ° Juneau International airport;
- ° Juneau hospital;
- ° Juneau harbor facilities;
- ° social services;
- ° cemeteries;
- ° libraries;
- ° convention facilities; and
- ° museums.

Conclusion Number Two

The annexation is necessary to accomplish a valid public purpose. Thus, the standard set out in 19 AAC 10.190(a)(8) is met. This conclusion is based upon the following findings.

- A. Development which increases demands for municipal services (even indirectly) should support the cost of those services.

The petitioners argue that "[T]he local government which provides the support services for the development and which experiences the impact from the development should have the best opportunity to acquire the [tax] revenues associated with the development." The Commission concurs.

Since the mine is located outside the CBJ's municipal boundaries, the CBJ receives no property taxes from the development. Further, retail sales to areas outside the CBJ's boundaries, including the mine, are exempt from the CBJ sales tax.

If the mine site were annexed, it is estimated that the CBJ would gain approximately \$336,000 per year in property taxes (based upon current areawide levy of 5.42 mills). In addition, the CBJ estimates that it would gain \$150,000 in annual sales tax revenues since the sale of goods for the Greens Creek Mine would no longer be exempt from its sales tax if the area were annexed.

It should be noted, however, that annexation of the mine would reduce the level of State education funding to the CBJ by an estimated \$248,000 beginning in FY 94.

- B. Inclusion of the area would better satisfy the Constitutional standards for borough boundaries.

Article X, Section 3 of the Alaska Constitution stipulates that boroughs "shall be established . . . according to standards . . . the standards shall include population, geography, economy, transportation and other factors . . . each borough shall embrace an area and population with common interests to the maximum degree possible".

The social, cultural, economic and transportation characteristics of the 140 square mile area are most closely linked to the CBJ. Thus, annexation of this territory would more fully satisfy the constitutional provisions concerning boroughs.

Conclusion Number Three

The Commission concludes that with the annexation, the CBJ would still conform to the standards set out in statutes for the incorporation of boroughs. Thus, the standard set out in 19 AAC 10.220 is satisfied. This conclusion is based upon the following findings.

- A. The population within the post-annexation boundaries of the CBJ would remain interrelated and integrated as to its social, cultural and economic activities.

The territory proposed for annexation is uninhabited. However, the area has significant social, cultural and economic ties to Juneau.

Juneau presently serves as the support center for Greens Creek Mine. Juneau is better prepared to provide the support, transportation and commercial services needed by the mining industry in the region in general, and the Greens Creek project in particular.

Travel to the area proposed for annexation is via the CBJ. The major employer in the area proposed for annexation, the Greens Creek Mine, has its corporate offices in the CBJ. Miners commute to work daily by ferry from homes within the municipal boundaries of the CBJ.

- B. The population within the expanded boundaries of the CBJ would remain large and stable enough to support borough government.

The greater Juneau area is one of the key metropolitan areas of Alaska. Its population is ample for purposes of borough government.

- C. The expanded boundaries of the CBJ would conform generally to natural geography and still include all areas necessary for full development of municipal services.

The post-annexation boundaries would conform generally to natural geography, to the extent that this standard is typically met by other organized boroughs in Alaska.

- D. The economy of the post-annexation CBJ would still include the human and financial resources capable of providing municipal services.

Annexation of the area would permit the CBJ to increase its annual revenues. As noted earlier, property tax revenues would increase by an estimated \$336,000 per year while sales tax revenues would climb by an estimated \$150,000 annually. This would be partially offset by a decline in State education funding (directly attributed to the increase in the tax base resulting from annexation) amounting to an estimated \$248,000 beginning in FY 94.

- E. Land, water and air transportation facilities of a post-annexation CBJ would still allow the communication and exchange necessary for the development of integrated borough government.

The area to be annexed is no more distant or difficult to reach than many other areas of the CBJ which are not on the road

Conclusion Number Four

The LBC concludes that the CBJ is capable of extending and willing to extend areawide services to the 140 square mile area proposed for annexation in accordance with 19 AAC 10.200. This conclusion is based upon the following findings.

As noted earlier, CBJ officials have outlined the services to be extended to the area upon annexation. Direct services include: emergency police services, search and rescue, emergency medical services, planning, zoning, coastal management, tax assessment and collection, and building inspection. In addition, services delivered by the CBJ in other locations, but available to the workers in the annexed area include: public schools, airport, hospital, harbor facilities, social services, cemeteries, libraries, convention facilities and museums.

The cost of extending these services to the area proposed for annexation is expected to be minimal. Additional tax revenues available to the CBJ as a result of the annexation are expected to exceed any cost of extending services to the area. Further, there are no known geographic or legal impediments which would prevent the CBJ from extending the aforementioned services to the area. Thus, there is no question that the CBJ is able to extend services to the area.

The willingness of the CBJ to extend services to this area is best measured by the actions of the CBJ Assembly, Mayor and Manager. These parties initiated the annexation proposal and support its implementation. Thus, it must be concluded that the CBJ is willing to serve the area proposed for annexation.

Conclusion Number Five

The impact that this annexation might have on the economic viability of existing and prospective boroughs is not an overriding consideration. Even so, the Commission concludes that the annexation would not necessarily have an adverse impact on the economic viability of a prospective Chatham Borough. This conclusion is based upon the following findings.

Financial viability of a region is an important consideration in determining whether it may be permitted to incorporate as a borough. However, borough boundaries should not be gerrymandered at the cost of social, economic, cultural and transportation ties in order to ensure financial viability of a particular region.

Even so, annexation of the Greens Creek Mine to the City and Borough of Juneau would not necessarily diminish the financial viability of a prospective Chatham Borough. Such an annexation would, of course, significantly diminish the property tax base of a prospective Chatham Borough. The mine has an estimated taxable value of \$62,000,000. That represents 48.3% of the estimated taxable value of property in a prospective borough encompassing Kake, Hoonah and Angoon.

While the relative value of the mine is significant in terms of the tax base of a prospective Chatham Borough, its exclusion from that prospective borough may actually increase its economic viability. As noted earlier, inclusion of the mine in the CBJ will increase its required local contribution to schools by \$248,000 -- the same would hold true for a Chatham Borough.

STATEMENT OF DECISION
CBJ ANNEXATION
PAGE SEVEN

property taxes. Except as noted below, inclusion of the mine in a prospective Chatham Borough would actually be a financial burden on the borough unless it were willing to levy a property tax amounting to at least 4 mills.

Typically, property taxes are viewed by residents of sparsely populated rural boroughs as being among the least desirable means of raising local revenues. For example, none of the three most recently formed boroughs (all of which encompass rural, sparsely populated regions) levies property taxes.

Unless the property tax base of a borough is significant, property taxes are typically avoided because the tax is relatively difficult and expensive to collect. The property tax base of a prospective Chatham Borough encompassing Hoonah, Kake and Angoon would not be particularly strong. Including the Mine, the property tax base in the Chatham Borough would be slightly more than 75% of the average per capita tax base in all organized boroughs in Alaska. Without the Mine, the property tax base would be about 40% of the average per capita tax base in all organized boroughs.

An exception would exist if the borough were to levy a severance tax. Based upon a written opinion of the State Attorney General's office, it is believed that a Chatham Borough could levy a severance tax on mines operating within its boundaries. However, no borough in the state currently levies such a tax. Any attempt to levy a severance tax on mines in a Chatham Borough would be expected to meet with considerable legal and political resistance. Thus, reliance on such a tax may prove to be inappropriate.

The levy of a use tax by a prospective Chatham Borough on the "storage, use or consumption of tangible personal property" imported to the mine would also seem unsuitable as a means to offset the burden that the mine would impose with respect to required financial contributions to education. At \$248,000 annually, the Borough would have to levy a use tax in excess of 6 percent. Further, in order to levy a use tax, a general law borough must also levy a sales tax at the same rate.

Conclusion Number Six

19 AAC 10.600 allows the LBC to consider all methods of annexation and to utilize the most appropriate for any particular petition. The 'legislative review' method for annexation is the most appropriate in this instance. This conclusion is based upon the following findings.

Of the five alternative procedures for annexation, four may be ruled out as unavailable or inappropriate in the current instance. These are:

- A. Annexation by Ordinance of Municipally Owned Property - This process is unavailable since the CBJ does not own all of the territory proposed for annexation.
- B. Annexation by Ordinance Following Petition from 100% of Voters and Property Owners - This process is not available because all of the property owners (there are no resident registered voters) in the area did not petition the City and Borough of Juneau for annexation. Further, it is questionable whether the owners of the Greens Creek Mine support annexation.

- C. Step Annexation - This process is reserved for annexations which anticipate gradual extension of those municipal services funded with sales and/or property taxes (i.e. "full municipal services") to the area over a period not greater than five years. The City and Borough of Juneau proposes the extension of "full municipal services" immediately upon annexation. Therefore, this process is inappropriate.
- D. Local Election - This process is unavailable since there are no resident registered voters in the territory proposed for annexation.

This leaves the legislative review process. Beyond the fact that this is the only method under which the territory in question may technically be annexed, there is benefit in involving the State Legislature in annexation proposals of this nature. Because of social, political and economic forces facing Alaskans, interest in forming new boroughs and expanding existing boroughs has reached an unprecedented level. This level of interest is expected to continue to grow. This, in turn, is likely to result in greater conflicts among regions competing for municipal status. As such, it is important that the Legislature be involved in deliberations concerning these matters.

Conclusion Number Seven

The common social, cultural and economic ties between the 140 square miles proposed for annexation and the CBJ are so great that there is no question that this area will be within the CBJ's model boundaries once they are established. This conclusion is based upon the following findings.

Before the comprehensive 'model boundaries' of the CBJ are defined by the LBC, hearings on model boundaries for adjacent regions should be conducted. However, this does not prevent the LBC from acting on the petition for annexation. The relationship of the Greens Creek area to Juneau and adjacent regions (particularly the Chatham region) has been fully considered by the LBC. Interested parties from adjacent regions have had ample opportunity to provide written comment and oral testimony to the LBC on this matter.

While the 140 square mile area has undeniable social, cultural and geographic ties to the Chatham area, the LBC finds that this area has even stronger ties to Juneau. The strength of these ties, particularly relating to the extensive economic development of the Greens Creek Mine, have been outlined earlier in this Statement of Decision.

SECTION III POSITION OF COMMISSION MINORITY

Commissioner Cotten's lack of support for the CBJ's petition is not based upon the merits of the proposal. Rather, it stems primarily from policy concerns over the nature of the annexation proceedings.

Of principal concern is the fact that the majority of the LBC approved the annexation even though the CBJ Assembly had, at the time, withdrawn its petition requesting annexation.

Further, the Commission heard no testimony at its July 13, 1990

STATEMENT OF DECISION
CBJ ANNEXATION
PAGE NINE

the Commission's opportunity to ask questions of CBJ officials concerning the merits of the annexation was effectively denied.

In addition, the majority of the LBC did not, at least formally, consider the proposed annexation in the context of model boundaries for the CBJ and adjacent regions.

SECTION IV
UNANIMOUS POSITION OF COMMISSION CONCERNING
PROPOSAL TO DEFER THE EFFECTIVE DATE OF THE ANNEXATION

On August 20, the CBJ Assembly rescinded its July 13 withdrawal of the petition to annex 140 square miles through the adoption of Resolution No. 1462 (Substitute). However, the rescision was subject to the deferral by the LBC of the effective date of the annexation to January 1, 1994.

The Commission was advised of the proposal to defer the annexation through the August 22, 1990 letter from Kevin Ritchie, Manager of the CBJ. Attached to that letter was a copy of Resolution No. 1462 (Substitute) and three pages of testimony of Cliff Davis, Manager of the Kennecott Greens Creek Mining Company. It appears from these materials that the proposal to defer the effective date of the annexation was intended to extend the municipal tax exempt status currently enjoyed by the mine development. Mr. Davis' testimony states:

. . . by delaying annexation until 1994, Greens Creek would be given a breathing space to become profitable before taxation begins. We have stabilized the economics at very low margin, but must improve them considerably to secure the mine's long-term future. We have considered a number of options for doing this, most of which require large capital expenditures. We want to get this behind us before we are annexed and begin paying taxes.

Mr. Jim Clark, Attorney for the Greens Creek Mine, confirmed this as the purpose behind the request for the deferred effective date in his memorandum of September 6, 1990. A copy of the memorandum was provided to each Commission member for consideration at the September 6 meeting.

Further, the LBC discussed the CBJ's request to defer the effective date with Mr. Jim Hall, Assistant Manager of the CBJ, who was present at the meeting of September 6.

Nothing in the letter of August 22 from Kevin Ritchie, the September 6 memorandum from Jim Clark or the comments of Jim Hall led the LBC to conclude that the request for a deferred effective date warranted serious consideration by the LBC.

The LBC felt that to grant the request for the deferred effective date would set a poor precedent. This would allow organized boroughs to "lock up" parts of the unorganized borough without exercising jurisdiction and control over these areas.

The Commission concluded that the request to defer the annexation for approximately 33 months is counter to the interests of the State. If, however, the CBJ Assembly feels that it is in the interests of its community to grant tax relief to the mine, the LBC notes that it has the capacity to do so without affecting the interests of the State.

The Commission notes that AS 29.45.050(m) authorizes the CBJ to

types of economic development property from taxation for up to five years" and that such exemptions may ever be extended beyond the five year period under certain restrictions. Thus, the CBJ may unilaterally grant the property tax deferment which it initially sought on behalf of the Mine.

Further, municipalities in Alaska enjoy very broad and liberal authority to grant exemptions from sales taxes which they levy. It is conceivable that the CBJ could legally enact a sales tax exemption (e.g. "exemption of sales to economic development properties") to provide sales tax relief to the mine for whatever period of time desired by the CBJ Assembly.

Granting such exemptions would not affect the level of local support required for operation of public schools required under Alaska's Public School Foundation Program. Regardless of any property or sales tax exemptions, the CBJ will be required to contribute an additional estimated \$248,000 in support of its public schools as a direct result of the annexation, beginning in FY 94 (see AS 14.17.025).

If, however, the Commission had agreed to the January 1, 1994 deferred effective date, this would have deferred the effective date of the additional required local contribution for schools for two years. Such consequences would have been counter to the interests of the State.

In consideration of all of these points, the LBC concluded that if the CBJ truly wished to defer the effective date of the annexation until January 1, 1994, the current petition should be denied and the CBJ should resubmit its petition for annexation in two years.

SECTION V
ORDER OF THE COMMISSION

Based upon the findings and conclusions set out in Sections II and IV of this Statement of Decision, the Commission orders as follows:

1. That The City and Borough of Juneau, Alaska Petition for the Annexation of Certain Onshore and Offshore Areas in Stephens Passage and Admiralty Island, dated May 31, 1989, is approved.

2. That a recommendation for the annexation of the territory requested in the annexation petition noted in # 1 above be submitted to the First Regular Session of the Seventeenth State Legislature during the first ten days of the Session.

3. That the annexation take full effect forty-five days after presentation of the recommendation noted in # 2 above, or at the end of the First Regular Session of the Seventeenth State Legislature, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house.

4. That, upon the effective date of the annexation, the Department of Community and Regional Affairs issue a Certificate of Boundaries to reflect the annexation of territory to the City and Borough of Juneau. The post-annexation boundaries of the City and Borough of Juneau would be described as follows:

STATEMENT OF DECISION
CBJ ANNEXATION
PAGE ELEVEN

Beginning at Point Coke near Holkham Bay in Stephens Passage at North 57° 47' 30" Latitude and West 133° 42' Longitude;

thence northeasterly, to Boundary Peak No. 79 on the Alaska-Canadian Boundary line at North 58° 09' 14.28" Latitude and West 133° 10' 13.94" Longitude;

thence northwesterly, along the International Boundary Line to Mt. Nesselrode (Boundary Peak No. 98) at North 58° 57' 44.96" Latitude and West 134° 18' 42.03" Longitude;

thence westerly, along the common boundary with the Haines Borough, to Eldred Rock Light at North 58° 58.3' Latitude and West 135° 13.2' Longitude;

thence southerly, along said common boundary, to a point midway between Lincoln Island on the east and the mainland on the west, located at North 58° 30' Latitude and West 135° 04' 15" Longitude;

thence southerly, along a line toward U.S.C.&G.S. triangulation station YOUNG located at North 58° 11' 42.7" Latitude and West 134° 33' 24.1" Longitude, to the intersection with a line between U.S.C.&G.S. triangulation station OUTER located near Outer Point at North 58° 18' 00.2" Latitude and West 134° 41' 12.9" Longitude, and U.S.C.&G.S. triangulation station GROUSE located on the Mansfield Peninsula at North 58° 13' 42.7" Latitude and West 134° 42' 28.5" Longitude;

thence southerly, to said triangulation station GROUSE;

thence southwesterly, to the mean high water line at the north end of Hawk Inlet located in the North one-half of protracted Section 35, T.42S., R.65E., CRM;

thence southerly, along the mean high water line of the west side of said Hawk Inlet to Hawk Point located in protracted Section 33, T.43S., R.65E., CRM;

thence southeasterly, to an unnamed knob of unspecified elevation between protracted Section 3 and protracted Section 10 of T.44S., R.65E., CRM, said point lying on the boundary of the Admiralty Island National Monument Non-Wilderness Area as that boundary existed on May 31, 1989;

thence southeasterly, along the common boundary of said Admiralty Island National Monument Non-Wilderness Area, along the hydrographic divide between Greens Creek and an unnamed drainage of Piledriver Cove to an unnamed peak of unspecified elevation in the Southwest one-quarter of protracted Section 11 of said Township;

thence southeasterly, along said hydrographic divide to an unnamed peak of unspecified elevation in the Northeast one-quarter of protracted Section 25, T.44S., R.65E., CRM;

STATEMENT OF DECISION
CBJ ANNEXATION
PAGE TWELVE

thence easterly and southerly, along the hydrographic divide between an unnamed tributary of Wheeler Creek and an unnamed tributary of Greens Creek, to an unnamed peak, elevation 3752, in the southeast one-quarter of protracted Section 30, T.44S., R.66E., CRM;

thence northeasterly, along said hydrographic divide, through a saddle, elevation 1110, to an unnamed peak, elevation 3738, in the northeast one-quarter of protracted Section 16 of said Township;

thence easterly, along the hydrographic divide between an unnamed tributary of Wheeler Creek and an unnamed tributary of Greens Creek, to an unnamed peak, elevation 3990, in the west one-half of protracted Section 14 of said Township;

thence southeasterly, along said hydrographic divide, to an unnamed peak, elevation 3856, in the south one-half of said protracted Section 14;

thence easterly, along said hydrographic divide, to an unnamed peak, elevation 4469, in the south one-half of protracted Section 13 of said Township;

thence northerly and northwesterly, along the hydrographic divide between Greens Creek and King Salmon River through an unnamed peak, elevation 3802, to an unnamed peak, elevation 3830, in the northeast one-quarter of protracted Section 11 of said Township;

thence northeasterly, along said hydrographic divide, to the common boundary with the Admiralty Island National Monument as that boundary existed on May 31, 1989, said point being an unnamed peak of unspecified elevation in the east one-half of protracted Section 36, T.43S., R.66E., CRM;

thence easterly, along said common boundary and the hydrographic divide between Admiralty Creek and King Salmon River to an unnamed peak, elevation 3939, in the west one-half of protracted Section 31 of T.43S., R.67E., CRM;

thence southeasterly, along said hydrographic divide, to an unnamed peak, elevation 4210 in the south one-half of said protracted Section 31;

thence easterly, along said hydrographic divide, to an unnamed peak, elevation 2017, in the east one-half of protracted Section 33 of said Township;

thence northeasterly, along said hydrographic divide, to an unnamed peak of unspecified elevation in the northwest one-quarter of protracted Section 26 of said Township;

thence northwesterly, to Point Arden Light at North 58° 09.6' Latitude and West 134° 10.6' Longitude;

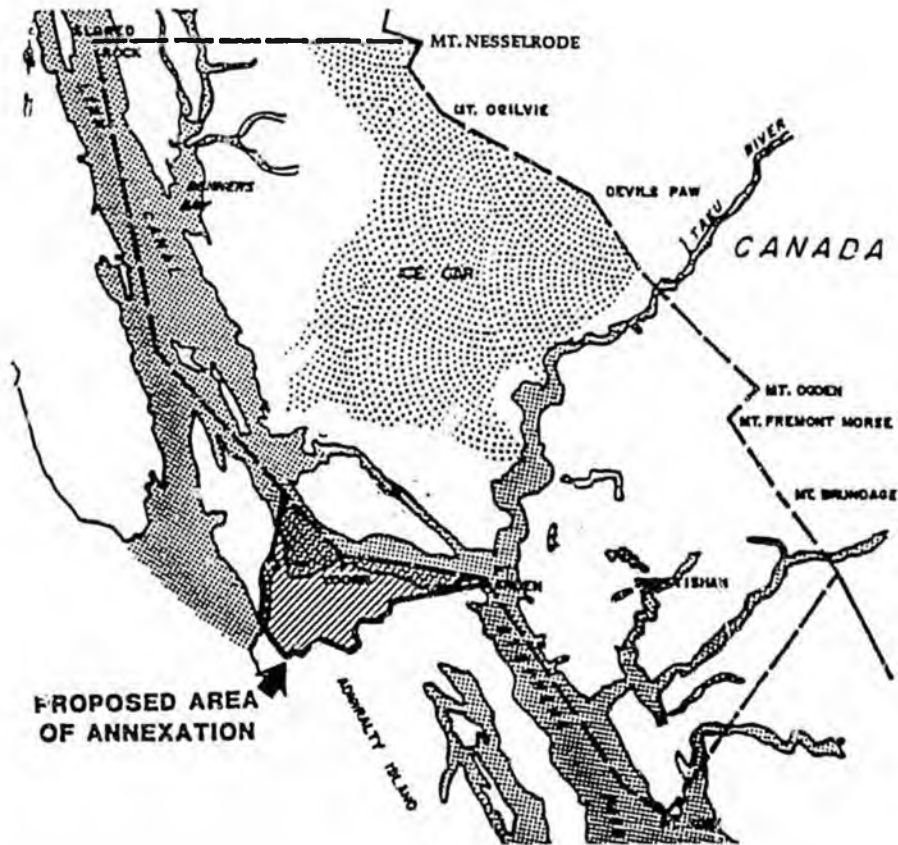
thence southeasterly, to Midway Island Light at North 57° 50.2' Latitude and West 133° 48.7' Longitude;

thence southeasterly, to Point Coke at North 57° 47' 30" Latitude and West 133° 42' Longitude, being the point of beginning.

STATEMENT OF DECISION
CBJ ANNEXATION
PAGE THIRTEEN

Containing 3,248 square miles, more or less, all in the First Judicial District, State of Alaska.

A map of this area is provided below:



ORDERED, THIS 8th DAY OF OCTOBER, 1990.

ALASKA LOCAL BOUNDARY COMMISSION

BY:

C. B. Bettisworth, Chairman

ATTEST:

Dan Bockhorst, Staff

RECONSIDERATION AND JUDICIAL APPEAL

Any individual may request that the Commission reconsider the decision outlined above within twenty days of the date of this order under 19 AAC 10.870. A copy of the regulations governing reconsideration is available from the Commission's staff at the Department of Community and Regional Affairs, 949 East 36th Avenue, Anchorage, Alaska 99508 (telephone number: 563-1073 - fax number: 563-1734).

A judicial appeal of this decision may also be made under the provisions of Alaska Rules of Appellate Procedures 601 et seq. An appeal to superior court must be made within thirty days from the date this order is mailed or delivered.

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPT. OF COMMUNITY AND REGIONAL AFFAIRS

MUNICIPAL AND REGIONAL ASSISTANCE DIVISION

949 EAST 36TH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99508-4302
PHONE: (907) 583-1073

P.O. BOX 348
BETHEL, ALASKA 99559-0348
PHONE: (907) 543-3475

P.O. BOX 290
DILLINGHAM, ALASKA 99576-0295
PHONE: (907) 842-5125

1001 NOBLE STREET, SUITE 430
FAIRBANKS, ALASKA 99701-4948
PHONE: (907) 452-7126

P.O. BOX BH
JUNEAU, ALASKA 99811-2110
PHONE: (907) 165-4750

710 MILL BAY ROAD
KODIAK, ALASKA 99615
PHONE: (907) 486-5736

P.O. BOX 350
KOTZEBUE, ALASKA 99752-0280
PHONE: (907) 442-3696

P.O. BOX 41
NOME, ALASKA 99762-0041
PHONE: (907) 443-5457

RECEIVED

AUG 3 1990

CBJ - LAW DEPT.

July 31, 1990

Mr. John Corso
Deputy Attorney
City and Borough of Juneau
155 South Seward Street
Juneau, AK 99801

Dear Mr. Corso:

You recently inquired about step annexation and the option to defer the effective date of annexation in regard to the Greens Creek Mine.

We believe that the Local Boundary Commission has the authority to delay the effective date of an annexation. In a January 17, 1984 opinion (copy enclosed), Assistant Attorney General James L. Baldwin concluded:

We believe the provisions of section 12 (Article X of the State Constitution) do not restrict the power of the local boundary commission to delay the operative date of the boundary change. . . .

There is no express provision in either the statute or the regulations dictating the time that a boundary change is to become operative. Therefore, the only restraint on the agency's choice of annexation method is the requirement that there be no abuse of discretion.

We are uncertain, however, whether the option of step annexation would be appropriate in this instance. Laws allowing step annexation were enacted as an alternative to immediate annexation. The step annexation provision allows for gradual assimilation of contiguous areas into a municipality where direct annexation would be premature or impractical. We are unaware of circumstances which indicate that it may be "premature or impractical" for direct annexation of the Greens Creek Mine to the City and Borough of Juneau.

EXHIBIT A

Mr. John Corso
July 31, 1990
Page Two

Further, laws regarding step annexation provide only for the annexation to a city of contiguous territory "upon a majority approval of the voters of the contiguous area to be annexed . . ." (see AS 44.47.567(a)(4), AS 44.47.567(b)(2) and 19 AAC 10.740 - 790). Whether a unified municipality could annex an unpopulated area using this method is unclear.

If you wish to further consider the option of step annexation, we would appreciate the opportunity to discuss the matter with you. Please contact Dan Bockhorst or myself.

Sincerely,


Marty Rutherford
Director

enclosure: January 17, 1984 memorandum from James L. Baldwin

cc with enclosure:

The Honorable Bruce Botelho, Mayor, City and Borough of Juneau
Members of the Local Boundary Commission
Marjorie Odland, Assistant Attorney General

EXHIBIT A

MEMORANDUM

State of Alaska

TO: Jim Sanders
Local Boundary Commission

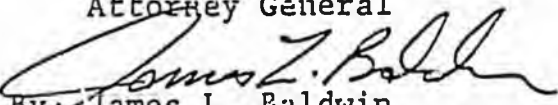
DATE: January 17, 1984

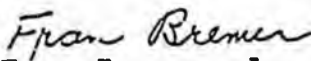
FILE NO:

TELEPHONE NO: 465-3600

FROM: Norman C. Gorsuch
Attorney General

SUBJECT: Delaying effective
date of boundary
change


By: James L. Baldwin
Assistant Attorney General
Governmental Affairs-Juneau


By: Fran Bremer, Legal Intern
Governmental Affairs-Juneau

You have asked us whether the local boundary commission can validly delay the effective date of a boundary change for two years, contingent on the holding of an election for the unification of the Borough and City of Haines. The answer is yes.

Article X, section 12 of the Alaska Constitution provides for the establishment of a local boundary commission, which may present a proposed boundary change to the legislature within the first 10 days of the session. Section 12 provides, "[t]he change shall become effective forty-five days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house." AS 44.47.583 repeats essentially the same language: "the change becomes effective 45 days after the presentation"

An examination of the minutes of the constitutional convention shows that the wording of section 12 was not intended to set a definite date on which the boundary change was to physically occur. 4 Proceedings of the Alaska Constitutional Convention 2750-2753 (Jan. 20, 1956). Rather, the language was intended as a limit on the legislature's power to disapprove a proposed boundary change.

At the convention, an amendment was introduced which required active legislative approval of a proposed boundary change. The delegates discussed the merits of permitting the proposed change to occur without legislative intervention, and rejected the amendment. 4 Proceedings at 2751. It is clear from comments made during floor debate that the delegates' main concern was the potential for delay caused by conditioning a boundary change on legislative approval. A delegate noted that a boundary change could be "difficult to get through if it is going

EXHIBIT C

to affect somebody's constituents." Id. Others noted that changes must be submitted to the legislature "but in the press of business ... they may not get around to consider such little things as a minor boundary change ..." and that "this little boundary adjustment will go from session to session ... because they won't have time to make it approved." Id. The 45-day limit on the legislature's power to disapprove avoided the possibility that the boundary change could go "from session to session" without being decided. See also A.L.I.V.E. Voluntary, 606 P.2d 769 (Alaska 1980)(discussion of article X, section 12 in terms of the power of the legislature to veto executive action).

We believe the provisions of section 12 do not restrict the power of the local boundary commission to delay the operative date of the boundary change. Alaska courts have recognized that annexation decisions involve policy choices that are incapable of judicial resolution. Port Valdez Co., Inc. v. City of Valdez, 522 P.2d 1147 (Alaska 1974); U.S. Smelting, Refining & Mining Co. v. Local Boundary Comm'n, 489 P.2d 140 (Alaska 1971). The local boundary commission was created to provide an expert and experienced agency to make these policy choices within the guidelines set out by law and regulation. See Town of Stillwater v. Minn. Municipal Comm'n, 219 N.W.2d 82, 87 (Minn. 1974)(commenting on the Minnesota Municipal Commission, whose structure and function is similar to that of the local boundary commission). Accordingly, the statutory scheme grants the commission broad power in matters affecting local boundaries. AS 44.47.565 -- 44.47.583. There is no express provision in either the statute or the regulations dictating the time that a boundary change is to become operative. Therefore, the only restraint on the agency's choice of annexation method is the requirement that there be no abuse of discretion. Port Valdez, 522 P.2d at 1151. The commission's decision to allow a two-year delay was a reasoned choice between the competing objectives of encouraging cooperation between the city and borough, and that of settling boundary questions promptly to facilitate planning and assure responsiveness to current conditions. The commission's choice of method -- to delay the operative date -- is analogeous to an agency's power to delay the effective date of a regulation under AS 44.62.180(4). We, therefore, conclude that the commission has the power to delay the operative date of the annexation for two years.

FB/pjg

EXHIBIT C

MEMORANDUM

State of Alaska

TO: Marty Rutherford, Director
Municipal & Regional Asst. Div.
Dept. of Community & Regional
Affairs

DATE: July 23, 1985

FILE NO. 366-034-86

TELEPHONE NO. 465-0600

FROM: Harold M. Brown
Attorney General

SUBJECT: LBC authority to de-
tach an area from an
organized borough

By: Jonathan B. Rubini
Assistant Attorney General
Governmental Affairs-Juneau

You have asked whether the Local Boundary Commission (LBC) enjoys the legal authority to present to the legislature a petition which provides for the detachment of an area from an organized borough if, but only if, the area to be detached is included within a newly-formed borough. Upon your request to expedite our review of this matter, we stated our oral advice that the LBC does enjoy the requisite legal authority. We briefly set out our views below.

We are advised that the North Slope Borough presently has under consideration a proposal to detach that portion of the borough which is included within the NANA Regional Corporation. The area in question includes the Red Dog mineral deposit, and inclusion of the Red Dog site is considered essential to the formation of a new borough encompassing the NANA Regional Corporation territory.

Article X, section 12 of the Alaska Constitution provides for the establishment of the LBC, and further directs the LBC to "consider any proposed local government boundary change." (Emphasis added.) Boundary changes approved by the LBC are presented to the legislature and "shall become effective forty-five days after presentation ... unless disapproved by a [concurrent resolution]."

We have previously stated our view that the LBC enjoys broad, inherent legal authority in the discharge of its constitutional and statutory obligations. 1982 Inf. Op. Att'y Gen. (J66-585-21; Oct. 25) (copy attached). Our conclusion in this regard reflects the series of Alaska Supreme Court decisions which reflect the court's deference to recommendations and procedures adopted by the LBC. See Port Valdez Co. v. City of Valdez, 522 P.2d 1147 (Alaska 1974); Cesau v. City of Billingsham, 439 P.2d 130 (Alaska 1968); Fairview Public Utilities District Number One v. City of Anchorage, 508 P.2d 540 (Alaska 1962). Cesau is particularly illuminating, since in that case the court explicitly noted that the LBC enjoys the authority to dissolve a city notwithstanding the absence of express statutory authority to do so. Cesau, 439 P.2d at 183.

EXHIBIT D

Marty Rutherford, Director
CRA--Municipal & Regional Asst. Division
366-034-86

July 23, 1985
Page #2

The immediate question is whether the constitutional effective date provision precludes the LBC presentation of a qualified boundary change, that is, a proposal which takes effect at some point -- and for some reasons -- unrelated to the 45-day provision. In most instances, the affirmative action of the legislature is required to initiate legislative action. In this instance, as in the case of legislative review of executive orders under article III, section 23, the constitution uniquely authorizes legislative "approval" through inaction. The provision reflects deference to the LBC and a desire to compel expeditious legislative attention to a LBC proposal. The constitutional provision should not be construed as a substantive limit to the otherwise broad delegation of legislative powers to the LBC. Indeed, the effective date provision is not necessarily in conflict with the broad authority of the LBC. Viewed properly, the effective date clause relates to the LBC proposal, not the underlying boundary change. Were the LBC to exercise its inherent authority to present a qualified proposal to the legislature, the proposal -- as qualified by the LBC -- takes effect 45 days after submission unless disapproved by concurrent resolution. Accordingly, we believe that the LBC enjoys the legal authority to present a qualified proposal to the legislature.

We further note that regulations adopted by the LBC further confirm the authority to present a qualified proposal. 19 AAC 10.240(b) provides:

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

The regulation expressly authorizes the LBC to condition a detachment petition upon the subsequent incorporation of a municipality including the detached area. By direct implication, the regulation reflects that the LBC may condition a detachment petition upon the subsequent incorporation of a new borough. See 1982 Inf. Op. Att'y Gen. (J66-535-81; Oct. 25). See generally U.S. Smelting, Refining and Mining Co. v. Local Boundary Comm'n, 489 P.2d 140 (Alaska 1971).

If you have any other questions, please feel free to call.

JBR/pig
Enc.

EXHIBIT D

DIVISION OF LEGAL SERVICES

**LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

240 Main Street, Suite 500
Juneau, Alaska 99801-2101

MEMORANDUM

February 11, 1992

SUBJECT: Effective Dates of LBC (Work Order No. 7-LS1980)

TO: Representative Jerry Mackie

FROM: Tamara Brandt Cook
Director *TBC*

You have asked whether the Local Boundary Commission (LBC) may include a delayed effective date in an annexation proposal submitted to the legislature. It is not clear to me that the LBC now has the authority to delay the effective date of an annexation. Article X, section 12 of the state constitution provides:

Section 12. Boundaries. A local boundary commission or board shall be established by law in the executive branch of the state government. The commission or board may consider any proposed local government boundary change. It may present proposed changes to the legislature during the first ten days of any regular session. The change shall become effective forty-five days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house. The commission or board, subject to law, may establish procedures whereby boundaries may be adjusted by local action. (Emphasis added)

The legislature has included this language in AS 44.47.567, so it could be argued that the effective date of an annexation submitted to the legislature as a boundary change has been established as a matter of both constitutional and statutory law.

It is true that the legislature has provided for gradual or step annexations for cities under AS 44.47.567. The Supreme Court appears to have accepted the power of the legislature to do so, despite the language of the constitution regarding the effective date of changes. (Port Valdez Company, Inc. v. City of Valdez, 522 P.2d 1147 (Alaska 1974)) But it may be that the court does not consider a step annexation to amount to a special effective date, since the beginning of the annexation process may coincide with the constitutionally established effective date. In any case, it does not appear that the legislature has authorized even step annexations for boroughs, much

Representative J. Mackie
February 11, 1992
Page 2

less delayed effective dates. There is, I think, at least a question as to whether the LBC can, on its own initiative, provide for a delayed effective date.

TBC:mi
92-021.mai

STATE OF ALASKA
LOCAL BOUNDARY COMMISSION

STATEMENT OF DECISION

IN THE MATTER OF THE EFFECTIVE)
DATE OF THE ANNEXATION OF THE)
GREENS CREEK MINE AND SURROUNDING)
TERRITORY TO THE CITY AND BOROUGH)
OF JUNEAU)

SECTION I
BACKGROUND

A. Petition for Annexation.

On May 25, 1989, the Assembly of the City and Borough of Juneau (CBJ) adopted a resolution authorizing a petition for the annexation of approximately 140 square miles. The area included the Greens Creek Mine on Admiralty Island.

The CBJ's annexation petition was filed on June 1, 1989. Six days later, the Local Boundary Commission (LBC) announced that it had postponed consideration of all pending proposals for borough annexation and incorporation. This action was taken to allow the LBC the opportunity to define 'model' boundaries for existing and future boroughs. The model boundaries, in turn, would be used to guide decisions concerning all future borough annexation and incorporation proposals.

Following a review of the petition, the Department of Community and Regional Affairs (DCRA) notified CBJ officials that the form and content of the petition were in substantial compliance with applicable laws. Public notice of the filing of the petition was subsequently provided.

On April 12, 1990 DCRA (in its role as staff to the LBC) issued its draft report and recommendation concerning the proposed annexation and ideal boundaries of the CBJ. Public comments on the report were accepted over a period of more than five weeks.

On June 22, 1990, DCRA released its final report and recommendation on the proposed annexation and model boundaries for the CBJ. DCRA recommended in its final report that the annexation be approved on the condition that the area to be annexed be expanded to encompass all of the territory within the CBJ's ideal boundaries. The ideal boundaries identified by DCRA extended to Hobart Bay on the mainland and included the Glass Peninsula and other areas on Admiralty Island.

The LBC scheduled a hearing on the annexation petition and CBJ model boundaries for July 13, 1990 in Juneau. Arrangements were made to allow residents of the communities of Angoon, Hoonah, Kake and Petersburg to participate in the hearing via teleconference. Notice of the hearing was provided as required by law.

B. Withdrawal of Petition.

Approximately six hours prior to the scheduled start of the LBC's hearing, the Assembly of the CBJ adopted a motion to withdraw its annexation petition. Notwithstanding that action, the LBC proceeded with the hearing. The LBC did so on the basis that:

1. Extensive notice of the hearing had already been given;
2. It was perceived that residents of Juneau and surrounding communities wished to testify before the LBC on the annexation and model boundary issues;

3. The LBC believed that the CBJ Assembly may have acted hastily in its attempt to withdraw the petition due to a concern that the recommendation of DCRA for the expansion of the territory proposed for annexation would be given "rubber stamp approval" by the LBC; and
4. There was no provision in statute or regulation under which a petitioner could withdraw a petition submitted to the LBC.

C. LBC Approval of Petition.

On July 14, 1990, the LBC adopted a motion to approve the annexation of the 140 square mile area requested in the CBJ petition. Approval was granted on the condition that the CBJ Assembly rescind its withdrawal of the petition.

On August 20, 1990, the CBJ Assembly adopted a resolution reinstating the annexation petition. However, the action was subject to the condition that the LBC defer the effective date of the annexation to January 1, 1994.

On September 6, 1990, the LBC rejected the request to defer the annexation. The LBC set September 22, 1990 as a deadline for concurrence by the CBJ Assembly for the Commission to proceed without delay on the annexation.

On September 17, 1990 James F. Clark, Attorney for the Kennecott Greens Creek Mining Company (KGCMC), notified the LBC that reconsideration of the LBC's decision would be requested. Later that same day, the CBJ Assembly adopted Resolution No. 1469 agreeing to annexation without delay. The Resolution appeared to make the Assembly's action conditional upon denial by the LBC of the anticipated request for reconsideration. However, CBJ officials indicated later that the Assembly did not intend this to be the case.

On September 22, 1990, the LBC adopted a motion stating that the action taken by the CBJ Assembly through Resolution No. 1469 satisfied the terms stipulated by the LBC on September 6. Thus, the petition was considered approved and the Commission directed that the annexation proceed without delay.

The LBC adopted a written statement of decision concerning the annexation on October 8, 1990. A copy of that statement was provided to CBJ officials, KGCMC officials and other interested parties.

D. Reconsideration.

On October 29, 1990, KGCMC filed a timely request for reconsideration of the LBC's decision. The request for reconsideration raised the following allegations:

1. Once the petition had been withdrawn by the CBJ, the LBC had no authority to approve it.
2. After the CBJ reinstated its petition, the matter should have been treated as a new petition, beginning with new notice of the filing of the petition.
3. The LBC did not seriously consider the CBJ's request to defer the effective date of the annexation.

4. The LBC's decision on the proposed deferral was made without substantive discussion and the conclusions presented in its statement of decision were not supported by the record.
5. The LBC was arbitrary in that it approved the petition based upon the action of the CBJ Assembly on September 17, 1990 (which did not provide for an immediate effective date, given the pending reconsideration) but denied the proposed deferral without debate.
6. The LBC's decision to approve the CBJ's petition was arbitrary in light of its denial of a similar annexation petition from the Fairbanks North Star Borough.

On November 8, 1990, the CBJ filed a response to the request for reconsideration. The response stated that "the city and borough believes that reconsideration of the reinstated amended petition with the 1994 effective date proposal as set forth in CBJ Resolution No 1462 (Substitute) is appropriate." The following three reasons were cited as the basis for the CBJ's position.

1. The CBJ Assembly action of September 17, 1990 was not intended to preclude reconsideration.
2. Neither the statutes nor LBC regulations provided procedures for withdrawal or amendment of petitions.
3. Reconsideration would result in a full hearing on the CBJ's reinstated amended petition.

On November 10, the LBC voted to reconsider its earlier denial of the proposed deferral of the annexation. The LBC limited reconsideration to the effective date of the annexation. That is, approval of the annexation itself was not to be reconsidered.

On December 13, 1990, the CBJ filed a brief urging the LBC to approve the proposal to defer the annexation. Copies of the brief were served by the CBJ on 62 interested parties.

Notice of the proposal to defer the annexation was served on 62 parties by the CBJ on December 13. As the notice contained a typographical error in the deadline for comments (February 1 instead of February 11) a corrected notice was served on the same 62 parties on December 17, 1990. The notice was also published in the Juneau Empire on December 21 and 28, 1990 and January 4, 1991.

On February 8, 1991, KGCMC filed an answering brief in support of the deferral. The Mayor of the City of Kake was the only other party to offer written comments on the matter by the February 11, 1991 deadline.

On March 15, 1991, DCRA's draft report concerning the pending reconsideration of the proposed deferral was released for public review. Individuals were given until April 15, 1991 to comment on the draft.

On June 4, 1991, DCRA issued its final report and recommendation on the proposed deferral. DCRA recommended against granting the deferral.

The LBC held a hearing on the proposed deferral on June 29, 1991 in the CBJ Assembly Chambers.

SECTION II
FINDINGS AND CONCLUSIONS

Based upon the evidence before the Commission, including but not limited to, the briefs filed by the CBJ and KGCMC, the report and recommendation of DCRA, other written submissions and testimony to the LBC at its June 29, 1991 hearing, the Commission makes the following findings and conclusions.

Conclusion Number One: THE DEFERRED EFFECTIVE DATE WOULD SERVE VALID PUBLIC PURPOSES. This conclusion is based upon the following findings.

The annexation is warranted for the many reasons cited in the October 8, 1990 statement of decision of the Commission concerning this matter (incorporated herein by reference). However, it appears that municipal tax and regulatory burdens imposed prior to 1994 may jeopardize the long-term viability of the mine.

According to testimony from the CEJ at the June 29, 1991 hearing, concerns over the impacts of annexation upon the mine were not present in 1989 when the annexation petition was filed. However, a subsequent decline in the price of silver and zinc has affected the profitability of the mine.

Cliff Davis, Manager of the Greens Creek Mine, stated in an affidavit dated April 15, 1991, that "[t]he Greens Creek Mine is not currently profitable and will not be profitable under current circumstances." The record also indicates that the mine has cut back on employee pay and benefits in order to reduce costs. Further, KGCMC officials testified that the mine has asked vendors to reduce the cost of supplies provided to the mine as a consequence of the downturn in the price of ore.

In addition to efforts to reduce costs, mine officials are contemplating an expansion of the operations to enhance profitability. If the territory were annexed to the CBJ, any expansion would be subject to land use regulation by the CBJ. KGCMC officials testified that the municipal permits for the expansion would likely exceed \$200,000.

CBJ officials testified that KGCMC has proven itself to be a very responsible organization with a sound environmental record. Any expansion of the mine would be subject to federal and state environmental laws. CBJ officials expressed no concern over the prospect of expansion of the mine while it was outside the jurisdiction of the CBJ.

In addition to relief from permit fees, CBJ officials testified that temporary relief from municipal sales and property taxes is warranted. The Greens Creek Controller testified that deferral of the annexation until 1994 is projected to save the mine a minimum of nearly \$835,000 in taxes and permit fees. The CBJ and the KGCMC have reached an accord that deferral of the annexation until 1994 will provide sufficient relief from regulation and taxes to help ensure the long-term viability of the mine.

Because the Greens Creek Mine (which directly employs some 300 Juneau residents) is an important part of the Juneau economy, its well-being is critical to the interests of Juneau. In turn, healthy communities are vital to the interests of the State.

Conclusion Number Two: DEFERRAL OF THE ANNEXATION IS A REASONABLE MECHANISM TO GRANT TEMPORARY RELIEF FROM TAXES AND REGULATION. This conclusion is based upon the following findings.

While the CBJ has authority to grant sales and property tax relief to the mine following annexation, it would be impractical for it to do so. Once property and sales tax exemptions are enacted by local ordinance, they are likely to be difficult to repeal. Thus, any tax exemptions are likely to extend beyond the short-term period desired in this particular case.

Further, any property and sales tax exemptions granted to the Greens Creek Mine are likely to be requested by others in the CBJ. In order to enact legally sound exemptions, CBJ officials testified that it might be necessary to extend the exemptions to others. Testimony from CBJ officials indicated that the CBJ Assembly considered, but rejected, the option of local tax exemptions apparently because of these concerns.

SECTION III
ORDER OF THE COMMISSION

Based upon the findings and conclusions set out in Section II of this Statement of Decision, the Commission orders as follows:

1. That the annexation of approximately 140 square miles to the City and Borough of Juneau (as noted in the LBC's October 8, 1990 Statement of Decision) be given an effective date of January 1, 1994.
2. That a recommendation for the annexation of the subject territory with an effective date of January 1, 1994, be submitted in accordance with Article X, § 12 of the Constitution of the State of Alaska to the Second Regular Session of the Seventeenth State Legislature during the first ten days of the Session (i.e. no later than January 22, 1992).
3. That upon the effective date of the annexation, the Department of Community and Regional Affairs issue a certificate of boundaries of the City and Borough of Juneau reflecting the subject annexation. Provided, however, that the City and Borough of Juneau first submit documentation to the Department demonstrating full legal compliance with the Voting Rights Act of 1965, 42 U.S.C. § 1973c as it relates to this annexation.


ORDERED, THIS 8th DAY OF SEPTEMBER, 1991.

ALASKA LOCAL BOUNDARY COMMISSION

BY:


C. B. Bettisworth, Chairman

ATTEST:


Dan Bockhorst, Staff

RECONSIDERATION AND JUDICIAL APPEAL

Within 20 days after a decision of the Commission is final, any person may file a request for reconsideration of that decision, setting forth specifically and in detail substantial facts and analysis in support of a reconsideration. The Commission may, on its own motion, order reconsideration.

A judicial appeal of this decision may also be made under the provisions of Alaska Rules of Appellate Procedures 601 et seq. An appeal to superior court must be made within thirty days from the date this order is mailed or otherwise delivered to the appellant. If a request for reconsideration is filed in a timely manner with the Commission, the notice of appeal must be filed within 30 days after the date that the Commission's reconsideration decision is mailed or otherwise distributed to the appellant, or after the date the request for reconsideration is deemed denied under the Commission's regulations, whichever is earlier.
