

AK. LOCAL
Boundary
Comm.



Alaska State Legislature

SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Senator Randy Phillips, Chair
Senator Robin Taylor, Vice Chair
Senator Rick Halford
Senator Al Adams
Senator Fred Zharoff

SESSION:
State Capitol
Juneau, Ak 99801-1182
(907) 465-4989

INTERIM:
P O. Box 142
Eagle River, Ak 99577
(907) 694-4949

AGENDA

9:00 am

February 4, 1993

1. Call to Order (time and members present)
2. Palmer Annexation - Local Boundary Commission Approval of Petition

GROUND RULES: Testimony will be limited to 5-10 minutes each. We will hear from the property owners affected by the annexation first. Other testimony by the public.

a. Property Owners

Dean & Melinda Dewey - Anchorage LIO
Robert Bailey - teleconference Matsu Off-net
Michael Dresnek - Anchorage LIO
Alaska Railroad Corp - Bonnie Bailey - Anchorage LIO

b. Testimony from Members of Public - Matsu LIO

c. Mr. Soulack - City Manager, City of Palmer
on teleconference MatSu LIO

d. Ms. Kathy Hummel - Alaska Health Project
on teleconference Anchorage LIO

e. Mr. Darroll Hargraves, Chairman Local Boundary Commission
on teleconference Ketchikan LIO

f. Mr. Dan Bockhorst- Staff Local Boundary Commission
on teleconference Anchorage Off-net

3. Motion to introduce a resolution to disapprove the Palmer annexation.
4. SB 26 - Location of the convening of the legislature in regular session - 3rd Public Hearing on bill - committee discussion of fiscal notes
5. Motion to move SB 26 with fiscal notes from committee with individual recommendations.
6. Adjourn

S. Fairbanks area may vote on annexation

By ERIC TROYER
Staff Writer

FDM/A
3-24-93

The residents of a section of South Fairbanks will finally get a chance to join the city this spring.

At Monday's meeting, the Fairbanks City Council approved a resolution calling for a by-mail special election for the annexation of 450 acres in South Fairbanks.

While the city is still waiting for a final word from the state Local Boundary Commission, the election should be held around the end of April, said City Clerk Toni Nigro. The election should be small since about 20 registered voters live in the area, she said.

Several business owners in the area support the annexation and have been pushing for it for more than a year. The council approved the initial petition to annex the area a year ago, but the paperwork was set aside for months because of other work, said City Manager Bob Wolting.

Three fires in the area, including a trailer fire last month, have spurred the issue on. Buildings were destroyed in the fires, but no one was injured. The city fire department decided against fighting the fires because they were outside the city limits. The area has no other fire protection.

Also at Monday's meeting, the council decided to try to sell some of the property it inherited from the Fairbanks Development Authority.

The council instructed city staff to try to sell the building that houses the Gold Exchange Bar & Grill. Staff will also bargain with the Bread Line Soup Kitchen to sell the building that houses the Clothes Line, a non-profit, second-hand store. The Bread Line owns the business.

The city will continue trying to sell the liquor license the FDA got from the Savoy Bar sale with a minimum bid of \$80,000.

However, the council decided it will delay action on the lot that borders the Chena River behind the Gold Exchange building until it hears from the Chena Riverfront Commission.

FEB 26 1993

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

LOCAL BOUNDARY COMMISSION

333 W. 4TH AVE., SUITE 220
ANCHORAGE, ALASKA 99501-2341
(907) 469-4500

February 25, 1993

The Honorable Randy Phillips
Chairman
Senate CRA Committee
State Capitol
Juneau, Alaska

Dear Senator Phillips:

I wish to comment on House Joint Resolution No. 31, disapproving the annexation of territory to the City of Cordova.

It is no secret that the Cordova annexation proposal faces strong opposition by those proposed to be annexed. While the concerns of those parties warrant meaningful consideration, it is vital that the Legislature balance those parochial views with the legitimate interests of others.

There are many issues which led the Commission to conclude that the Cordova annexation proposal has substantial merit. However, I believe that the following singular example best illustrates why the annexation is warranted.

The City of Cordova is required by state law to operate a city school district. Approximately 410 students live within the boundaries of the City. An additional 90 students live in the area proposed for annexation, but attend City schools. These 90 students bring about a 22% increase in the enrollment in City schools. The City is prohibited by law from levying property taxes outside its boundaries. To compensate for this, the State provides tuition as supplemental financial aid to the City for the education of "out of district students." These payments have averaged about \$185,000 annually. However, the Department of Education has recently announced that it will cease those payments beginning next fiscal year. If the annexation is denied, the City of Cordova will be left to cope with the loss of substantial school funding.

The Honorable Randy Phillips

February 25, 1993

Page Two

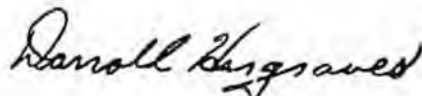
This circumstance is equivalent to forcing the Anchorage School district to educate all of the students in the Mat-Su School District, while not allowing Anchorage to tax Mat-Su property owners, and then announcing that the State will eliminate more than \$20 million in financial aid for the Anchorage School District next year.

It is noteworthy that the Legislature singled out the school district boundary problems in Cordova as an example of "organizational arrangements that cause problems" in education (see Report of the Joint Committee on School Performance, page 43, January 1991).

Education is but one example of the services provided to the area proposed for annexation. Other services include emergency services (fire protection, search & rescue, emergency police protection, jail), hospital, multiple recreational facilities, and general governmental services such as the public library and museum. As the City faces continued reductions in State aid, annexation is critical to ensuring that it remains financially viable.

If House Joint Resolution No. 31 passes the House, I would encourage you to consider the complete findings and conclusions of the Local Boundary Commission which are listed in its 22-page decisional statement regarding this matter.

Cordially,



Darroll Hargraves
Chairman

Staff at the Department of Community and Regional Affairs have completed their review of the work draft (dated 2/18/92) of a bill entitled "An Act relating to municipal incorporation, reclassification, and dissolution." Generally, the draft does an excellent job of addressing the changes to Title 29 of the Alaska Statutes suggested by the Local Boundary Commission on pages 26-27 of its 1991 Annual Report.

The following comments are offered for consideration:

I. RECLASSIFICATION OF CITIES.

A. Include Provisions for Reclassification of First Class and Home Rule. On February 11, members of the Senate C&RA Committee (particularly Senator Sturgulewski) expressed the need to provide standards and procedures for reclassification of home rule or first class cities. Currently, the law makes no provision for such reclassification. The Local Boundary Commission, a majority of whom were present at the February 11 meeting of the Senate C&RA Committee, informally agreed that provisions allowing such reclassifications are needed. The Department of Community and Regional Affairs also feels that such provisions are necessary.

It would appear that the work draft could be readily modified to accommodate this desired change. This could be done by either eliminating specific references to second class cities in the Section 1 - 3 of the work draft, or alternatively adding appropriate references to first class and home rule cities. Other provisions of AS 29.04.040 which do not appear in the work draft would also have to be modified (e.g. modification of the section title "Reclassification of second class cities").

B. Add Regulatory Authority. The Department recommends that consideration be given to adding language which explicitly grants authority to the Local Boundary Commission to adopt regulations concerning reclassifications. However, care should be taken to ensure that the effect of doing so does not adversely impact the Commission's authority in other areas.

The Commission has clear authority to adopt regulations to provide standards and procedures for "changing local boundary lines" (AS 44.47.567). The term "changing local boundary lines" has long been interpreted by the Commission, this agency and the Attorney General's office to include municipal incorporations.

As was discussed with the Senate C&RA Committee on February 11, questions have recently arisen concerning the Commission's authority to adopt regulations concerning municipal incorporation. This issue is included in the pending appeal concerning the proposed incorporation of the Valleys Borough (see pages 24-25 of 1991 Annual Report).

Post-It™ brand fax transmittal memo 7871	# of pages = 10
From: Shirley Armstrong	Don Brethorst
Co: Sen Phillips et al	Dept: DCRH
Dept: DCRH	Phone: 269-4500
Fax: 269-4500	

The Department is concerned that by explicitly providing authority to the Commission to adopt regulations to reclassify municipalities, it may somehow weaken the case that the Commission has authority to regulate incorporations. Perhaps the best manner to address this concern would be to also provide explicit authority for the Commission to adopt regulations for incorporation in the fashion which has been done for annexations, detachments, mergers, consolidations and dissolutions (AS 29.06.040(c), 29.06.090(b)(1), 29.06.450(a)(1)).

Provisions explicitly authorizing the Commission to adopt municipal incorporation regulations would not seem at all out of place in the draft bill (e.g. Section 4).

C. Modify Requirement for Council Hearings. Section 3 of the draft retains the requirement in existing law that the city council hold a hearing on the proposed reclassification. However, the draft amends AS 29.04.040(c) to require the city council to conduct the hearing after the LBC has accepted the petition. There is little point in the council holding a hearing and "then evaluat[ing] the ability of the city to assume first class status" after the Commission has already approved a petition for reclassification.

The Department believes that there is merit in promoting public deliberation on any proposed reclassification before a petition is filed. Consequently, the Department recommends that AS 29.04.040(c) be repealed, but that Section 2 of the draft be amended at line 8 to read to the effect of the following: "(2) the council may propose reclassification if it determines, on the basis of at least one public hearing, that the city has the human and financial resources necessary to assume the classification proposed."

Additionally, AS 29.04.040(d) should be modified to reflect any change of the requirement for the hearing by the council.

II. INCORPORATION OF UNIFIED MUNICIPALITIES.

A. Scope. It should be clear that a unified municipality could form whether or not city government(s) or borough government(s) exist prior to incorporation of the unified municipality. Perhaps it would be best to explicitly state such in the bill.

B. Effect. It should also be clear that incorporation of a unified municipality dissolves all cities and boroughs within its boundaries. Again, perhaps it would be best to make an explicit statement to this effect in the bill. Language similar to that in AS 29.06.370 would seem to be suitable.

C. Assistance. Sections 8 and 9 of the bill concerning organizational grants and transitional assistance contain language that exempts the application of these provisions to "a unified municipality that occupies the area formerly occupied by a borough." The Department supports appropriate limitations to avoid abuse of the opportunity for such assistance. However, it would be ideal to craft language which does not preclude such assistance where it may be truly warranted.

For example, an area within a borough might wish to join with a large unincorporated region to form a single borough or unified municipality (e.g. the 25,000 square mile Lake and Peninsula Borough and the 22,000 square mile Dillingham Census Area). Since a substantial portion of such a new municipality would include territory which was previously part of the unorganized borough, it would seem appropriate to extend the organizational grant and transitional assistance to the municipality. Obviously, some standard would have to be developed to determine the circumstances under which this provision would apply.

Further, a borough or unified municipality which encompasses previously unincorporated territory should be eligible to receive a municipal land entitlement under AS 29.65 for that portion of the municipality not previously within a borough.

CONCLUSION

We appreciate the opportunity to review and comment on the working draft at this time. We look forward to the opportunity to provide further comments as this matter progresses.

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7-LS2033A
Cook
2/18/92

Post-It™ brand fax transmittal memo 7671		# of pages	7
To	Dan Beckhurst		
From	Sen. Frank		
Co.	Sen. Frank		
Dept.	C.A.R.A.		
Phone #	465-3709		
Fax #	269-4530		

SENATE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Introduced:
Referred:

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to municipal incorporation, reclassification, and dissolution."

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

3 * Section 1. AS 29.04.040(a) is amended to read:

4 (a) A second class city may be reclassified as a first class city [BY HOLDING AN
5 ELECTION ON THE QUESTION.] if it meets the standards for incorporation as a first class
6 city under AS 29.05.011(a). Reclassification is proposed by filing a petition with the
7 department. The department shall investigate the proposal and report its findings to the
8 Local Boundary Commission with its recommendations. The commission shall hold at least
9 one public hearing in the city on the proposal. If the commission determines that the city
10 meets the standards for incorporation as a first class city and that reclassification is in the
11 best interests of the state, it shall accept the petition. If the commission determines that the
12 city does not meet the standards or that reclassification is not in the best interests of the
13 state, it shall reject the petition. The decision may be appealed under the Administrative
14 Procedure Act (AS 44.62) [THE DEPARTMENT DETERMINES FROM THE BEST FIGURES

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1 AVAILABLE THAT THE POPULATION OF THE CITY HAS REACHED 400 PERMANENT
2 RESIDENTS].

3 * Sec. 2. AS 29.04.040(o) is amended to read:

4 (b) A petition proposing [AN ELECTION ON THE QUESTION OF] reclassification
5 may be filed by [INITIATED IN TWO WAYS:]

6 (1) a number of voters equal to 15 percent of the number of votes cast in the city
7 at the preceding regular election [MAY FILE A PETITION WITH THE COUNCIL]; or

8 (2) the council may propose reclassification.

9 * Sec. 3. AS 29.04.040(c) is amended to read:

10 (c) If the Local Boundary Commission accepts a petition for reclassification, the
11 [THE] council shall hold at least one public hearing in the city on the question of reclassification.
12 The council shall then evaluate the ability of the city to assume first class status and make its
13 findings public.

14 * Sec. 4. AS 29.05.011(a) is amended to read:

15 (a) A community that meets the following standards may incorporate as a first class or
16 home rule city:

17 (1) the community has 400 or more permanent residents;

18 (2) the boundaries of the proposed city include all areas necessary to provide
19 municipal services on an efficient scale;

20 (3) the economy of the community includes the human and financial resources
21 necessary to provide municipal services; in considering the economy of the community, the Local
22 Boundary Commission shall consider property values, economic base, personal income, resource
23 and commercial development, anticipated functions, and the expenses and income of the proposed
24 city, including the ability of the community to generate local revenue;

25 (4) the population of the community is stable enough to support city government;

26 (5) there is a demonstrated need for city government.

27 * Sec. 5. AS 29.05.031(a) is amended to read:

28 (a) An area that meets the following standards may incorporate as a home rule, first
29 class, or second class borough, or as a unified municipality:

30 (1) the population of the area is interrelated and integrated as to its social,
31 cultural, and economic activities, and is large and stable enough to support borough government;

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1 (2) the boundaries of the proposed borough or unified municipality conform
2 generally to natural geography and include all areas necessary for full development of municipal
3 services;

4 (3) the economy of the area includes the human and financial resources capable
5 of providing municipal services; evaluation of an area's economy includes land use, property
6 values, total economic base, total personal income, resource and commercial development,
7 anticipated functions, expenses, and income of the proposed borough or unified municipality;

8 (4) land, water, and air transportation facilities allow the communication and
9 exchange necessary for the development of integrated borough government.

10 * Sec. 6. AS 29.05.060 is amended to read:

11 Sec. 29.05.060. PETITION. Municipal incorporation is proposed by filing a petition with
12 the department. The petition must [SHALL] include the following information about the
13 proposed municipality:

14 (1) class;

15 (2) name;

16 (3) boundaries;

17 (4) maps, documents, and other information required by the department;

18 (5) composition and apportionment of the governing body;

19 (6) a proposed operating budget for the municipality projecting sources of income
20 and items of expenditure through the first full fiscal year of operation;

21 (7) for a borough or unified municipality, based on the number who voted in
22 the respective areas in the last general election, the signature and resident address of 15 percent
23 of the voters in

24 (A) home rule and first class cities in the area of the proposed borough
25 or unified municipality; and

26 (B) the area of the proposed borough or unified municipality outside
27 home rule and first class cities;

28 (8) for a first class borough or unified municipality, a designation of areawide
29 powers to be exercised;

30 (9) for a second class borough, a designation of areawide and nonareawide powers
31 to be exercised;

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1 (10) for a first class, [OR] second class, or home rule city, a designation of the
2 powers to be exercised;

3 (11) for a first class or home rule city, based on the number who voted in the
4 area in the last general election, the signatures and resident addresses of 50 voters in the proposed
5 city or of 15 percent of the voters in the proposed city, whichever is greater;

6 (12) for a second class city, based on the number who voted in the area in the last
7 general election, the signatures and resident addresses of 25 voters in the proposed city or of 15
8 percent of the voters in the proposed city, whichever is greater;

9 (13) for a home rule city, home rule borough, or unified municipality a
10 proposed home rule charter.

11 * Sec. 7. AS 29.05.110(d) is amended to read:

12 (d) A home rule charter included in an incorporation petition under AS 29.05.060(13)
13 is considered to be part of the incorporation question. The home rule charter is adopted if the
14 voters approve incorporation of the city, borough, or unified municipality.

15 * Sec. 8. AS 29.05.190 is amended to read:

16 Sec. 29.05.190. ORGANIZATION GRANTS TO BOROUGH AND UNIFIED
17 MUNICIPALITIES. (a) For the purpose of defraying the cost of transition to borough
18 government and to provide for interim governmental operations, each borough or unified
19 municipality incorporated after December 31, 1985, is entitled to organization grants as follows:

20 (1) \$300,000 for the municipality's [BOROUGH'S] first full or partial fiscal
21 year;

22 (2) \$200,000 for the municipality's [BOROUGH'S] second fiscal year; and

23 (3) \$100,000 for the municipality's [BOROUGH'S] third fiscal year.

24 (b) The department shall disburse the first organization grant to a borough or unified
25 municipality within 30 days after certification of the [INCORPORATION] election favoring
26 incorporation [OF A BOROUGH], or as soon after that as money is appropriated and available
27 for the purpose. The second grant shall be disbursed within 30 days after the beginning of the
28 municipality's [BOROUGH'S] second fiscal year, or as soon after that as money is appropriated
29 and available for the purpose. The third grant shall be disbursed within 30 days after the
30 beginning of the municipality's [BOROUGH'S] third fiscal year, or as soon after that as money
31 is appropriated and available for the purpose.

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1 (c) This section does not apply to a borough incorporated by consolidation or to a unified
2 municipality that occupies the area formerly occupied by a borough.

3 * Sec. 9. AS 29.05.210 is amended to read:

4 Sec. 29.05.210. TRANSITIONAL ASSISTANCE TO BOROUGH AND UNIFIED
5 MUNICIPALITIES. (a) Within 30 days after the date of incorporation of a borough or unified
6 municipality incorporated after December 31, 1983, the department shall determine the
7 population of the borough or unified municipality.

8 (b) The department shall provide assistance to each borough and unified municipality
9 incorporated after December 31, 1985, in

10 (1) establishing the initial sales and use tax assessment and collection department
11 if the borough or unified municipality has adopted a sales or use tax;

12 (2) determining the initial property tax assessment roll if the borough or unified
13 municipality has adopted a property tax, including contracting for appraisals of property needed
14 to complete the initial assessment.

15 (c) This section does not apply to a borough incorporated by consolidation or to a unified
16 municipality that occupies the area formerly occupied by a borough.

17 * Sec. 10. AS 29.06.470(a) is amended to read:

18 (a) Except as provided in (b) of this section, voters of a municipality may petition for
19 dissolution when the municipality is free of debt, or, if in debt, each of its creditors is satisfied
20 with a method of repayment and

21 (1) the municipality no longer meets the minimum standards prescribed for
22 incorporation by AS 29.05, or former AS 29.18.030 if it is a third class borough;

23 (2) the municipality ceases to use ~~ear~~ of its mandatory powers; or

24 (3) the dissolution petition filed under AS 29.06.460 is signed by a number of
25 voters of the municipality proposed to be dissolved greater than 50 percent of the number of
26 votes cast in the last regular [GENERAL] election in that municipality.

27 * Sec. 11. AS 29.06.500(a) is amended to read:

28 (a) If the Local Boundary Commission determines that a municipality fails to meet the
29 standards for dissolution, it shall reject the petition. [IF THE COMMISSION DETERMINES
30 THAT THE MUNICIPALITY MEETS THE STANDARDS UNDER AS 29.06.470(A)(1) OR
31 (2), IT SHALL ACCEPT THE PETITION.] If the commission determines that the petition meets

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1 the standards under AS 29.06.470(a)(1), (2), or (3) [AS 29.06.470(a)(3)] and that dissolution of
2 the municipality is in the best interest of the state, it shall accept the petition.

3 * Sec. 12. AS 29.10.010(b) is amended to read:

4 (b) A second class city that exceeds 35 square miles in area may adopt a charter for its
5 own government and reclassify as a home rule city if the department determines from the best
6 figures available that the population of the city is at least 3,500 permanent residents.
7 Reclassification is proposed by filing a petition with the department. The department shall
8 investigate the proposal and report its findings to the Local Boundary Commission with its
9 recommendations. The commission shall hold at least one public hearing in the city on the
10 proposal. If the commission determines that the city meets the standards under this section
11 and that reclassification is in the best interests of the state, it shall accept the petition. If
12 the commission determines that the city does not meet the standards or that reclassification
13 is not in the best interests of the state, it shall reject the petition. The decision may be
14 appealed under the Administrative Procedure Act (AS 44.62).

15 * Sec. 13. AS 29.10.010(c) is amended to read:

16 (c) At an incorporation election [FOR BOROUGH INCORPORATION], an area in the
17 unorganized borough may adopt a charter for its own government and incorporate as a home rule
18 city, borough, or unified municipality.

19 * Sec. 14. AS 29.10.010(f) is amended to read:

20 (f) The proposed charter for an unincorporated area [OF THE UNORGANIZED
21 BOROUGH] shall be prepared by the petitioners and filed under AS 29.05.060 with the petition
22 to incorporate a home rule city, borough, or unified municipality.

23 * Sec. 15. AS 29.10.020 is amended to read:

24 Sec. 29.10.020. MODEL CHARTERS. The department shall prepare at least one model
25 home rule charter for a city, borough, and unified municipality. The model charters
26 [CHARTER] shall be made available to persons interested in filing a petition to incorporate a
27 home rule municipality [BOROUGH] under AS 29.05.060.

28 * Sec. 16. AS 29.10.070 is amended to read:

29 Sec. 29.10.070. CHARTER ELECTION. The proposed home rule charter for an existing
30 municipality shall be submitted to the voters at an election held not less than 30 days or more
31 than 90 days after the proposed charter is published. The proposed home rule charter for an

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1 unincorporated area [IN THE UNORGANIZED BOROUGH] shall be submitted to the voters
2 at an incorporation election held under AS 29.05.110.

3 * Sec. 17. AS 29.10.080(a) is amended to read:

4 (a) If a majority of those voting in an existing municipality favor the proposed charter
5 or if a majority of those voting in an unincorporated area [IN THE UNORGANIZED
6 BOROUGH] favor incorporation of a home rule municipality [BOROUGH], the proposed charter
7 becomes the organic law of the municipality effective on the date the election is certified.
8 Thereafter, a court shall take judicial notice of the charter. The new home rule municipality shall
9 file the indicated number of copies of the charter with

- 10 (1) the lieutenant governor - two copies;
11 (2) the department - two copies;
12 (3) the district recorder - one copy;
13 (4) the municipal clerk - one copy.

14 * Sec. 18. AS 29.10.090(b) is amended to read:

15 (b) If incorporation of a home rule municipality [BOROUGH] is rejected by the voters
16 in an unincorporated area [IN THE UNORGANIZED BOROUGH], the proposed charter is
17 rejected.

MEMORANDUM

State of Alaska

Department of Community
and Regional Affairs

TO: Senator Randy Phillips

DATE: Tuesday, March 2, 1993

FILE NO: S RPhillips/3-2

THRU:

TELEPHONE:(907) 465-4700

FROM: Bruce R. Geraghty ^{BRG}
Deputy Commissioner

SUBJECT: Legislative Issues
Important to DCRA

You have asked for "one liners" describing current legislative issues that concern the department. The following is the short list. I have not included all the bills, or issues, the department is tracking. This list represents items the department supports.

1. Local Boundary Commission.

- A. City of Cordova annexation of 68.23 square miles.
- B. City of Haines annexations of 4.75 and 7 square miles.
- C. City of Hoonah annexation of 7.25 square miles.
- D. City of Palmer annexation of 7.5 acres.
- E. Suggested changes to Title 29.

1. Amend AS 29.05.011 to permit direct incorporation of Home Rule Cities.
2. Amend AS 29.04 040 and AS 29.10.010 to require LBC approval of reclassification of a Second Class City in the Unorganized Borough.
3. Amend AS 29.06.190 to allow direct incorporation of Unified Municipalities.
4. Amend AS 29.06.470 and ... 29.06.500 to clarify dissolution standards.

2. SB 57 reauthorization of the State Training and Employment Program (STEP).

3. SB 102/HB 66 creating an optional municipal property tax exemption for senior citizens and disabled veterans, and repealing the renter's rebate program.

4. Funding reductions to the municipal assistance and revenue sharing programs, recommended by the economic summit, while at the same time exempting small communities with little or no present means to replace "across the board" style reductions. Reduction proposed 25 percent and implementation of \$25,000 base amount in municipal assistance program.

5. SB 88 and SB 89, creation of Capital Matching Grant Program.

WORK ORDER REQUEST FORM

W.O. [18] LS-0567

KEYWORDS: BOUNDARIES ASSIGNED: Cook

MUNICIPALITIES

REQUEST FOR: Resolution TAKEN BY: Barnes

SUBJECT: Disapprove Recommended Palmer Boundary Change

REQUESTED FOR: SC SCRA BY: Shirley PHONE: 465-4949

DELIVER TO: Sen. Phillips, Cap. 103

INSTRUCTIONS: Draft resolution disapproving the Local Boundary Commission recommendation regarding changes in Palmer municipal boundaries.

OBTAIN	SPECIAL DRAFTING INSTRUCTIONS ATTACHED [] AUTHORIZED TO CONFER WITH _____ _____ RETURN _____ _____ TO REQUESTOR APPROVED: <input checked="" type="checkbox"/> DIRECTOR, LEGAL SERVICES
--------	--

REVIEWED _____ IN <u>02/02/93</u> DUE _____ TYPED: Draft _____ Date _____ Final _____ Date _____ PROOFED _____ DELIVERED _____
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SPECIAL INSTRUCTIONS to TYPING/PROOFING _____ _____ Request for DRAFT
--

8-LS0567A
Cook
2/8/93

SENATE JOINT RESOLUTION NO.

**IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - FIRST SESSION**

BY THE SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

**Introduced:
Referred:**

A RESOLUTION

1 **Disapproving the Local Boundary Commission recommendation regarding the**
2 **annexation of territory to the City of Palmer.**

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

4 **WHEREAS**, under art. X, sec. 12, Constitution of the State of Alaska, the Local
5 Boundary Commission has presented to the legislature its recommendation regarding the
6 annexation of territory to the City of Palmer; and

7 **WHEREAS** the recommendation was received on January 20, 1993; and

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

12 **BE IT RESOLVED** by the Alaska State Legislature that the recommendation of the
13 Local Boundary Commission received January 20, 1993, regarding the annexation of territory
14 to the City of Palmer, is disapproved.

1/28/93

Dear Senator Phillips;

I am writing in response to the petition for legislative review annexation to as29.06.040 (B) of approximately 7.5 acres within section 28, Township 18 N, Range 2 E, s.m. As a property owner of lot 20, Block 1, of the revised plat of the Riverside Subdivision, I would like to express my deep concern regarding intentions to forcibly annex this property. I am strongly against such an action. I bought this property because it's unrestricted and I want to keep it that way. I Beg you to deny this petition.

Respectfully,

Michael T. Dresnek

Michael T. Dresnek

Marilyn A. Dresnek

Marilyn A. Dresnek

21131 Eastside Dr.

Chugiak Alaska 99567

ALASKA RAILROAD CORPORATION

P.O. Box 107500 • Anchorage, Alaska 99510-7500



City Council
7-23

July 11, 1991

RECEIVED
JUL 1 1991
CITY OF PALMER

Planning and Zoning Advisory Commission
City of Palmer
231 W. Evergreen Avenue
Palmer, Alaska 99645

Re: Riverside Subdivision, Lots 1 through 10 and Lots 20
through 27, Block 1

The Alaska Railroad Corporation is not in favor of the City of
Palmer annexing the Alaska Railroad's right-of-way to the City
of Palmer.

Sincerely,

Bonnie G. Bailey
Bonnie G. Bailey
Leasing Specialist

SUBMITTED
1/4/93
TO THE LOCAL BOUNDARY COMMISSION

January 4, 1993

TO: LOCAL BOUNDARY COMMISSION

FROM: ROBERT ED. BAILEY *Robert Ed. Bailey*

THROUGH: Robert H. Knight, Jr., Consultant to Mr. Bailey *by RHK*

SUBJECT: REQUEST FOR RECONSIDERATION OF
LBC DECISION TO APPROVE ANNEXATION

Mr. Bailey hereby requests the Local Boundary Commission to reconsider its December 30, 1992, decision to approve the City of Palmer's petition to annex Mr. Bailey's and four other property owners' land into the City of Palmer.

The essential elements requiring reconsideration involve due process issues as well as a significant difference with respect to views expressed about Mr. Bailey's fate if annexation goes through.

The other essential element derives from the decision document itself. That document was handed to Mr. Bailey's consultant after it was voted on by the Commission and not before Mr. Bailey's consultant had a chance to address the Commission; i.e., nothing was said at that time.

The contents of the decision document do not reflect the comments of the Commissioners when they first voted 3-2 in favor of the annexation on December 21, 1992. The comments of the dissenters are summarized in footnote 3 on page 3 of the decision. The views of the majority are not those set out in the decision, at least as expressed on December 21st.

For instance, Commissioner Cotten expressed concern about "the children." A video tape which only Commissioner Cotten viewed contained footage about children in proximity to Mr. Bailey's property. Commissioner Cotten did not mention that or the other contents of the tape in his lengthy dissertation on the law and other matters as set out by the petitioner.

The Decision reflects none of this. The Decision appears to reflect the staff report efforts. Citing vague assertions from Police Chief Otte on page 7 with regard to complaints and dogs when nothing of substance was reported should not be the basis for a Commission decision. No expert testimony was provided or evidence produced with respect to pit privies as cited on page 8 of the Decision. The mere speculation about City residents living downhill does not speak to such technical matters as the depth of the water table, the direction of flow of that water any more than it cites a single problem ever produced by the use of these pit privies. The Commission should demand hard evidence when making a judgment on a hostile annexation. There is no hard evidence of any relevance. A dog incident more than 12 years old is cited in support of the decision. That dog did not belong to Mr. Bailey. The dog belonged to a tenant that Mr. Bailey had inherited that year when he bought that particular lot. The Staff has clearly reached as far as it could to try to justify the Commission's vote. The evidence cited is not relevant evidence. It is stale evidence. In a fair trial, a 12 year old misdemeanor would not be permitted in as evidence. The use of a 1988 incident is highly questionable in view of all the changes that have occurred since then.

Then Conclusion set out on page 8 of the Decision states that "viewed collectively" all of the problems thrown out by the petitioner constitute a threat to health and safety and welfare of city residents. The only thing that the City proved in its testimony is that there were some unhappy people who petitioned in 1989.

The due process element requires even in administrative proceedings something akin to the fair trial philosophy anyone receives under the Alaska and U.S. Constitutions. This fair trial element is clearly missing from these proceedings from the beginning to the end.

For instance, it has only recently come to Mr. Bailey's attention that Mr. Matera, a witness at the public hearing was one of the original petitioners and, after signing the petition, sat as a member of the Palmer Planning Commission reviewing the petition and voting it forward to the Palmer City Council. The very origins of the petition are invalid! Mr. Matera should have recused himself from the consideration of the petition because he was a petitioner. The LBC should reject the petition because it was fatally flawed at the outset.

The Commissioners should not overlook such flaws when the matter is a hostile annexation. Mr. Bailey respectfully suggests that he is entitled to fair play at every step in this matter and that he did not receive it when Mr. Matera voted as a member of the Planning Commission on the petition in the first place.

The Commission should have ignored Chief Otte's vague affidavit when it was shown from minutes of the Palmer City Council that a Council Member was agreeable to flooding the police with dog complaints.

The unlicensed vehicles on Mr. Bailey's property were never shown to be a hazard to anyone. In fact testimony was presented by several mothers of small children asserting that their children had played on Mr. Bailey's property without ever being harmed in any way.

The misreading of Ms. Hummel's October 19th letter by the Staff appears to be stretching. Ms. Hummel was never asked about that letter despite making personal efforts to be available as an expert witness to the Commission. Ms. Hummel intended that letter to point out the kinds of problems the City of Palmer might be creating for itself through the annexing of Mr. Bailey's property. This information was provided because Ms. Hummel had seen similar efforts in other parts of the United States. Misreading the letter without bothering to ask her about it and using it in support of the Commission's vote is stretching too far.

The lack of water and sewer facilities were addressed by only one certified sanitarian: Ms. Hummel. No expertise was ever summoned to refute her findings and conclusions. Only the idle speculation of unqualified persons was given to the Commission with respect to the petitioner's views on the matter of privies, etc. The LBC and the people of the State of Alaska deserve better than that.

Ms. Hummel's use of the word "nuisance" in her letter is not explained by the Staff. It is simply thrown out as though it were somehow significant. Mr. Bailey has asserted all along that if the

neighbors wanted to do something, their appropriate action was a nuisance suit in court. What is being made of the use of "nuisance" in Ms. Hummel's letter is not clear although it seems to be cited in support of this decision. Such vagueness should not be a part of the Commission's decision.

Footnote 7 on page 8 states only that efforts were made to arranged for a DEC person to go to Mr. Bailey's property. The full story is laid out in the materials submitted by Mr. Bailey. The footnote ignores the facts. Commission decisions should be on firmer ground. The Commissioners should revisit the decision and review point by point the materials submitted.

Commissioner Cotten spoke at some length about how Palmer bears Mr. Bailey no ill will in his ~~comments~~ prior to voting on December 21st. An affidavit is attached to this submission which indicates clearly that Commissioner Cotten's view is not shared by the Palmer police. That affidavit shows that a Palmer policeman asserted that he could not wait to arrest Mr. Bailey. Additionally, Mr. Bailey's son was stopped by the police and given an unsigned summons for something he asserts he did not do. Two other friends of Mr. Bailey's were stopped or arrested after the public hearing. An affidavit is attached showing that two persons saw Palmer police writing down the license numbers of the cars in the parking lot at the Hearing Chamber on the night of the Commission's public hearing (11/20/92). Clearly, Mr. Bailey's future in the City of Palmer is not a happy one. In view of the clear intention of the City of Palmer to arrest Mr. Bailey at the first opportunity, the Commision should reconsider this vote and deny the petition.

City Manager Soulak's personal observations on Mr. Bailey were reported in the Anchorage Daily News prior to the Commission's vote. The City Manager has has ample opportunity to make known his personal views ever since the matter started. He has never done so. Expressing those views to the media may have been inadvertent, but the fact remains Mr. Soulak is an authority figure in the petitioner's organization and his views carry weight. Such views should not be permitted in the public just prior to the Commision's casting its votes on this matter. In particular, where the vote is close as it was in this matter, every element should be important.

Neither Mr. Soulak with his comments in the paper, nor any of the witnesses presenting testimony was ever subjected to questioning or cross-examination by Mr. Bailey or his representative. Specificity was lacking as to specifics at every turn, yet the testimony was allowed in as sworn testimony. (Not Mr. Soulak's newspaper quotes, but the others').

The Commission should take the time to reflect on the kangaroo court efforts to pillory Mr. Bailey and the lack of real or hard evidence to support such efforts.

Indeed, the final statement in the Decision's conclusion shows that the annexation is being put forward simply to solve a neighborhood problem that should have gone to court as a nuisance suit in the first place. The legislative review annexation process is clearly being used to support a City effort to force Mr. Bailey to forsake what is a legal lifestyle and live as the City of Palmer would have him live. It is an invasion of privacy, a violation of his civil rights to annex him so that a policeman can arrest him, a lack of due process and a lack of equal protection. These arguments are spelled out in detail in the October 21, 1992,

Review and Comments submitted by Mr. Bailey and as other violations occurred in subsequent submissions.

Commissioner Cotten missed the November 20, 1992, public hearing. He subsequently reentered the matter. He traveled out to Palmer to view Mr. Bailey's property without calling on Mr. Bailey. About the time he was supposedly visiting, Mr. Bailey saw two men come on to his property. He had never seen Commissioner Cotten and so would not have been able to identify him. Commissioner Cotten needs to state whether he was accompanied by anyone when he visited Mr. Bailey's property and whether he had any conversations with anyone besides Staff or other Commissioners regarding the matter.

Finally, Commissioner Cotten should have recused himself from participating or voting on the matter. In 1991, Mr. Bailey's consultant, Mr. Knight, was the Division Director of the Municipal and Regional Assistance Division in the Department of Community and Regional Affairs. A Deputy Division Director job came open under Mr. Knight. Mr. Cotten expressed strong interest in the job and was interviewed for it by Mr. Knight. Mr. Cotten was subsequently not selected for the job. Mr. Bailey thought that Commissioner Cotten's absence from the public hearing meant that Mr. Cotten did not intend to participate. It was not clear up until the time during the vote on December 21st when Mr. Cotten said how he would vote that Mr. Cotten intended to vote. Mr. Cotten did not reveal to his fellow commissioners that he had had the above described negative contact with Mr.

Bailey's consultant. The parties, though present at the vote meeting, were prohibited from speaking out at the vote meeting. No objection was taken then, but was entered at the next available opportunity to speak. Neither Mr. Bailey nor Mr. Knight wishes to raise a personal matter like this, but where the matter is a forced annexation and the vote is 3-2 and one of the majority has had a prior contact which should have caused him to recuse himself or absent himself from the vote, Mr. Bailey respectfully suggests that the Commission should revisit the decision, reconsider the vote, and vote again. Whether or not Mr. Cotten's views were or were not swayed by that prior contact is not as important as the integrity of the decision process itself.

A 2-2 tie vote would have meant a denial of the petition. Mr. Cotten's lengthy speech on behalf of Palmer was picked up and endorsed by Chairman Hargraves. Whether his vote was swayed in fact by Mr. Cotten's speech is not as important as the fact that Commissioner Hargraves endorsed what Mr. Cotten said. Had not Mr. Cotten said those things or had he revealed that he had had negative contact with Mr. Bailey's consultant and recused himself, the vote might well have been changed.

The Commission should reconsider its vote and disallow Commissioner Cotten's participation in the vote leaving the first vote at 2-2, rewrite its decision based upon the hard points made, and deny the petition.

The due process and basic fairness problems with this annexation effort started at the very beginning when unhappy neighbors attempted to use political might to force a neighbor to change his living patterns. The courts were and are available for such matters. The executive branch and the administrative process should not be available for such misuse as has occurred

here. The stretching of the Staff in drafting the Commission's decision shows that there is nothing of substance to support it. Commissioner Cotten's participation at this end of the process completely fouls the integrity of the process. The other elements are already set out in the materials sent to the Commission. They are incorporated here by reference. From Mr. Matera's participation as a petitioner and a planning commissioner to Commissioner Cotten's unrevealed negative contact with Mr. Bailey's consultant, the handling of this petition is flawed. The Commission must reconsider its decision.

Mr. Bailey wishes to express his personal appreciation for the personal courtesies he has been shown in his contacts with the Commission. He also wishes to express his appreciation for the professional handling of the matter by the Commission's Staff.



OFFICIAL BUSINESS

Alaska State Legislature
Senate
Office of the Secretary

STATE CAPITOL
JUNEAU, ALASKA 99801-1182
(907) 465-3701
FAX: 465-2832

January 22, 1993

MEMORANDUM

TO: Senator Phillips, Chair
Community and Regional Affairs Committee

FROM: Nancy Quinto *NQ*
Secretary of the Senate

SUBJECT: Alaska Local Boundary Commission 1992 Annual Report

Pursuant to AS 44.47.567 and Article X, Section 12 of the Alaska Constitution, President Halford has referred the above report to your committee for consideration.

NQ/ps

Report attached

*Received
4:00pm
1/22/93
Marilyn [Signature]*

RECEIPT BY SECRETARY OF THE SENATE

This is to acknowledge receipt of the following materials by the office of the Secretary of the Alaska Senate on January 20, 1993:

1. Alaska Local Boundary Commission - 1992 Annual Report to the Eighteenth Alaska State Legislature, dated January 20, 1993.
2. Letter dated January 20, 1993 from Darroll Hargraves to Senator Randy Phillips transmitting the above listed report.

Office of the Secretary of the Senate:

BY: Nancy Junto

DATE: 1-20-93

*Rec'd
2:45 pm.
2:45*

STATE OF ALASKA

LOCAL BOUNDARY COMMISSION

WALTER J. HICKEL, GOVERNOR

333 W. 4TH AVE., SUITE 220
ANCHORAGE, ALASKA 98501-2341
(907) 269-4500

January 20, 1993

The Honorable Randy Phillips
Chairman
Committee on Community & Regional Affairs
Alaska State Senate
State Capitol
Juneau, Alaska

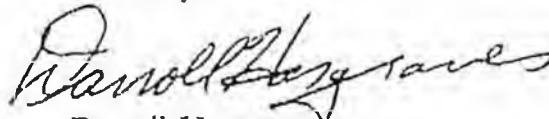
Dear Chairman Phillips:

Enclosed is the Local Boundary Commission's 1992 Annual Report to the Alaska State Legislature. Presented on pages 40 - 49 of the report are five formal recommendations for the annexation of territory to cities. These recommendations are made to the Legislature pursuant to Article X, Section 12 of Alaska's Constitution. A recommendation made in this fashion becomes effective on March 6, 1993, unless the Legislature denies the recommendation through the adoption of a concurrent resolution.

As Chairman of the Senate Committee which has principal jurisdiction over these matters, I draw to your attention to the fact that parties have until January 28, 1993, to ask the Local Boundary Commission to reconsider its final decision approving the City of Cordova's annexation. The Commission has already taken up three requests for reconsideration of that decision and has found all to be without merit. However, the Commission has been advised that at least one other party intends to request reconsideration. If the request is filed on or before January 28, I will call a meeting of the Commission to address the request. I will keep you fully informed of the Commission's deliberations on that matter.

I understand that arrangements are underway to schedule a meeting between the Senate Committee on Community & Regional Affairs and the Local Boundary Commission. The Commission looks forward to discussing with your Committee the many interesting and important topics covered in our report.

Cordially,



Darroll Hargraves
Chairman

Local Government

al services within an organized borough abolished by the assembly, subject to the new service area shall not be established as of this article, the new service can be e area, by incorporation as a city, or by mbly may authorize the levying of taxes, in a service area to finance the special

Boroughs.

for the performance of services it deems ganized boroughs, allowing for maximum nsibility. It may exercise any power or ough which the assembly may exercise in

a manner prescribed by law, and shall be ch they are located. Cities shall have the d by law or charter. They may be merged, sified, or dissolved in the manner provided

hall be the council.

orough of the first class or city of the first repeal a home rule charter in a manner e of such legislation, the governing body of class shall provide the procedure for the ejection of the charter. All charters, or parts hall be submitted to the qualified voters of become effective if approved by a majority ific question.

Home Rule.

ome rule to other boroughs and cities.

Local Government

Article X

Section 11 - Home Rule Powers.

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

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.

Section 13 - Agreements; Transfer of Powers.

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

Section 14 - Local Government Agency.

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

Section 15 - Special Service Districts.

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

AS 44.47.567

THE
FOLLOWING
DOCUMENTS
ARE
POOR
ORIGINAL
COPIES

Effect of amendments. — The 1985 amendment rewrote paragraph (5).

The 1988 amendment, effective March 12, 1988, substituted "AS 44.47.370" for "AS 44.47.360" in the introductory language and rewrote paragraphs (1) and (2),

which read "'director' means the director of the division of housing assistance." "division" means the division of housing assistance," respectively.

The 1989 amendment, effective July 1, 1989, repealed subsections (1) and (2).

Article 7. Local Boundary Commission.

- Section 565. Local boundary commission
- 567. Powers and duties
- 569. Meetings and hearings
- 571. Minutes and records
- 573. Notice of public hearings

- Section 575. Quorum
- 577. Boundary change
- 579. Expenses
- 581. Hearings on boundary change
- 583. When boundary change takes effect

Sec. 44.47.565. Local boundary commission. There is in the department a local boundary commission. The local boundary commission consists of five members appointed by the governor for overlapping five-year terms. One member shall be appointed from each of the four judicial districts described in AS 22.10.010 and one member shall be appointed from the state at large. The member appointed from the state at large is the chairman of the commission. (§ 7 ch 64 SLA 1959 am § 5 ch 200 SLA 1972; am § 100 ch 59 SLA 1982)

Revisor's notes. — Formerly AS 44.19.250. Renumbered in 1980. Cross references. — For further provisions relating to the appointment, qualifications, and terms of members of the commission, see AS 39.05.060.

provisions relating to the appointment, qualifications, and terms of members of the commission, see AS 39.05.060.

NOTES TO DECISIONS

When constitutional provision effective. — The method for making boundary changes, contemplated by art. X, § 12, of the Alaska Constitution, was operative upon the enactment of AS 44.19.260 (now AS 44.47.567) and this section. Fairview Pub. Util. Dist. No. 1 v. Anchorage, 368

P.2d 540 (Alaska), appeal dismissed and cert. denied, 371 U.S. 5, 83 S. Ct. 39, 7 L. Ed. 2d 49 (1962).

Cited in Mobil Oil Corp. v. Local Boundary Comm'n, 518 P.2d 92 (Alaska 1974).

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

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

Title 43
Revenue and Taxation

Title 44
State Government

as well as standards for participation by voters of these contiguous areas in the affairs of the incorporated cities furnishing services.

(b) The local boundary commission may

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

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

Revisor's notes. — Formerly AS 14.19.260. Renumbered in 1980.

Cross references. — For further provisions relating to powers and duties of the commission, see AS 29.06 and § 12, art. X Alaska Constitution.

Opinions of attorney general. — When grouped together, the powers and duties of the local boundary commission are as follows: (1) To consider any local government boundary change (Sec. 12, art. X, Alaska Constitution); (2) to present proposed changes to the legislature (Sec. 7, art. X, Alaska Constitution; § 7, ch. 64 SLA 1959); (3) (subject to law) to es-

establish procedures whereby boundaries may be adjusted by local action (Sec. 12, art. X, Alaska Constitution); (4) to make studies of local government boundary problems (Sec. 7, ch. 64, SLA 1959); (5) to develop proposed standards and procedures for changing local boundary lines (Sec. 7, ch. 64, SLA 1959); (6) to hold hearings on proposed boundary changes (Sec. 7, ch. 64, SLA 1959). 1959 Op. Att'y Gen., No. 30.

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

NOTES TO DECISIONS

By this section and AS 44.47.583 it is provided that the commission must make studies of local government boundary problems, develop proposed standards and procedures for changing boundaries, and consider boundary changes requested of it by political subdivisions. The commission may conduct hearings on boundary changes and present proposed changes to the legislature. The change becomes effective unless the legislature disapproves; legislative silence permits the change. *United States Lumbering, Ref. & Mining Co. v. Local Boundary Comm'n*, 489 P.2d 140 (Alaska 1971). This constitutional provision effective.

ive. — See same catchline in note to AS 44.47.565.

Alaska Const., art. X, § 12 established two methods by which local boundaries might be changed: (1) by direct action of the local boundary commission subject to legislative disapproval, and (2) by establishment by the commission of procedures for the adjustment of boundaries by local action. *Port Valdez Co. v. City of Valdez*, 522 P.2d 1147 (Alaska 1974).

Step annexation allows for gradual assimilation. — As an alternative to immediate annexation, the step-annexation provision allows for gradual assimilation of contiguous areas into incorporated cit-

January 25, 1991

Dear Alaska State Legislator,

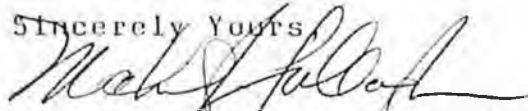
I am writing this letter in support of the proposed annexation of 7.5 acres in No. Palmer, Ak. I will spare you all the details of this issue and why I am in favor because there is just too much material to cover. However, I would like to point out that I have been involved in this issue as an interested party. I live directly across the street from this property and have first hand knowledge of the situation that exists.

Since 1990, I have had to attend numerous Palmer City Council meetings and have given sworn testimony at the Local Boundary Commission public hearing. All parties involved have been afforded due process with time extensions on deadlines, appeals, etc. After this long drawn out process, the Local Boundary Commission voted to approve the annexation and subsequently voted to deny a reconsideration of the issue.

As a Legislator, you may be inundated with letters and/or phone calls from people acting on behalf of Mr. Ed Bailey, the only one of several land owners in the affected area to be so opposed to the issue. Several of his acquaintances have gone so far as to form the "Alaska Citizens Awareness Committee", initially founded for the sole purpose of opposing this annexation. Due to the fact that Mr. Bailey has persuaded his friends, relatives, and acquaintances to support him in his opposition, you may well receive more letters against the annexation than in favor. This has been the pattern in the past, but obviously the City Council Members, L.B.C. staff and the L.B.C. Commissioners were able to see this for what it was.

In closing, I urge you to support the L.B.C. decision and support this annexation for the good of the residents of North Palmer.

Sincerely Yours



Michael J. Gallagher Family
546 No. Chugach St./P.O.B. 2991
Palmer, Ak. 99645
746-0527

Sen Phillips

**ALASKA LOCAL BOUNDARY COMMISSION
1992 ANNUAL REPORT TO THE
EIGHTEENTH ALASKA STATE LEGISLATURE**

January 20, 1993



Walter J. Hickel, Governor

LOCAL BOUNDARY COMMISSION

Darroll Hargraves, Chairperson

Shelley Dugan, Vice-Chairperson

Frances Hallgren, Member

Myrtle Johnson, Member

Lamar Cotten, Member



CHAIRMAN'S MESSAGE

1992 was an active and challenging year for the Local Boundary Commission. The Commission met on thirty-two occasions.

During the year, the Commission approved ten annexations to cities, as well as the incorporation of one new borough and the dissolution of one city. In many instances, the Commission amended the petitions prior to approval. The Commission also denied one city annexation petition. Another petition sought detachment from one municipality and annexation of the same territory to another municipality. However, that petition was withdrawn prior to Commission action.

Five of the city annexations approved by the Commission are submitted in this report for final approval by the legislature. Approval of these annexations is recommended under the terms of Article X, Section 12 of the State Constitution. The recommendations relate to annexations to the City of Hoonah (7.25 square miles); City of Haines (one for 4.75 square miles and a second for 7 square miles), City of Palmer (7.5 acres) and the City of Cordova (68.23 square miles). The formal recommendations for legislative approval of these annexations (including maps and other information) are presented in Section VII of this report.

During 1992, the Commission also completed its efforts to define model borough boundaries throughout Alaska's huge residual unorganized borough. This work does not compel borough formation or annexation, but is intended to promote greater planning in the development of future borough incorporation and annexation petitions. Maps and other details of this project are included in Section III of the report.

The report also includes details about other notable events of 1992. These include the implementation of a major re-write of the Commission's regulations and the status of pending litigation. Further, the report raises what the Commission considers to be important public policy matters for consideration by the legislature.

1993 promises to be another exciting year for the Commission. A number of Alaska's 165 municipal governments and 100 or so unincorporated communities and regions are contemplating proposals to come before the Commission. Details concerning these matters are also included in the report.



Darroll R. Hargraves
Chairman, Local Boundary Commission

Contents

I.	ROLE OF LOCAL BOUNDARY COMMISSION.....	1
II.	LOCAL BOUNDARY COMMISSION DECISIONS IN 1992	3
	Legislative Review Annexations, Art. X, Sec. 12, AK Constitution	3
	Local Action Annexations	4
	Municipal Incorporations	6
III.	MAJOR PROJECTS	8
	Model Borough Boundaries Project	8
	LBC Regulations	25
IV.	SPECIAL ISSUES	28
	Suggested Changes to Title 29	28
	Local Boundary Commission Compensation.....	29
	Meetings On-Site vs. Teleconference	31
	Municipal Tax Limitation Issues	32
V.	LITIGATION	33
VI.	FUTURE ISSUES	36
	Potential City Incorporations.....	36
	Potential Borough Incorporations.....	37
	Potential City Annexations	37
	Potential Consolidations	38
	Potential Dissolutions	38
	Potential Detachments	38
VII.	RECOMMENDATIONS FOR ANNEXATION UNDER ARTICLE X, SECTION 12, ALASKA CONSTITUTION	40
	HOONAH.....	40
	HAINES #1	42
	HAINES #2	44
	CORDOVA	46
	PALMER	48
	APPENDIX A - 1992 LOCAL BOUNDARY COMMISSION MEETINGS	50
	APPENDIX B - SUMMARY OF STANDARDS & PROCEDURES	54

Index

A

Adak 8, 51
Akhiok 37, 38
Akiachak 11
Akiak 11
Akutan 21, 37, 39, 52
Alakanuk 10
Alaska Gateway REAA 22, 52
Alaska Gateway Region 8, 51
Aleknagik 24
Aleutian 19, 21, 51, 52
Aleutians East Borough 21, 36, 39, 52
Alexander Creek 39
Anchor Point 36
Anchorage 5, 50, 51
Angoon 17
Aniak 12, 52
Atka 21, 52
Atmautluak 11, 38
Attu 19

B

Bear Creek 36
Bethel 11, 52
Bettles 38
Boundary 22
Bristol Bay Borough 24
Bristol Bay (region) 8, 51

C

Calista 8, 51
Central Southeast Alaska 17
Chatham 17
Cheforak 11
Chenega 18
Chevak 10
Chicken 22
Chignik 24, 38, 52
Chignik Lake 24, 52
Chiniak 39
Chistochina 23
Chitina 23
Chuathbaluk, 12
Chugach REAA 18
Clark's Point 24
Copper Center 23
Copper River Basin 8, 23, 51
Copper River REAA 23, 52
Cordova 3, 18, 30, 46, 50, 51, 52
Crooked Creek 12
Cross Sound/Icy Straits 50
Cube Cove 17

D

Delta Greely 8, 22, 52
Delta Junction 22, 50
Denali Borough 34
Denali National Park 34
Dillingham 24, 37, 52, 53
Dillingham Census Area 24
Dot Lake 22
Dry Creek 22

E

Eagle 22
Eek 11
Egegik 24, 52
Ekuk 24
Ekwook 24, 34
Elfin Cove 13, 17, 50
Emmonak 10
Evansville 38

F

Fairbanks 37, 38, 50
Fairbanks North Star Borough 38, 39
Fort Greely 22

G

Gakona 23
Game Creek 51
Glacier Bay 13
Glacier View 36
Glennallen 23, 51
Goodnews Bay 11
Gulkana 23
Gustavus 13, 17, 36, 50

H

Haines 3, 17, 42, 44, 51, 53
Haines Borough 14
Healy Lake 22
Hoonah 4, 13, 17, 40, 50, 51
Hooper Bay 10
Hyder 36

I

Iliamna 38

J

Juneau, 50

Index Continued

K

Kake 17
Kashunamiut 10
Kasigluk 11, 38
Kenai Peninsula Borough 36
Kenny Lake 23
Ketchikan 38, 50
Ketchikan Gateway Borough 38
King Cove 37
Kipnuk 11
Klukwan 14
Kodiak 38, 39
Kodiak Island Borough 38, 39
Kokhanok 24, 52
Koliganek 24
Kongiganak 11
Kotlik 10
Kuspuk 8, 11, 12, 52
Kuspuk REAA 52
Kwethluk 11
Kwigillingok 11

L

Lake & Peninsula Borough 24, 34
Levelock 24, 52
Lower Kalskag 12
Lower Kuskokwim 11, 52
Lower Kuskokwim REAA 52
Lower Yukon 8, 10, 11, 52

M

Manokoktak 24
Marshalli 10
Matanuska-Susitna Borough 34, 36, 39
McCarthy 23
Mekoryuk 11
Mentasta Lake 22
Mountain Village 10

N

Naknek 24, 52
Napakiak 11
Napaskiak 11
Nelson Lagoon 36
New Stuyahok 24
Newhalen 24, 38, 52
Newtok 11, 38
Nightmute 11
Nikiski 36

Nikolski 21
Nome 50
Nondalton 24, 52
North Pole 50
Nunapitchuk 11
Nushagak 52, 53
Nushagak Villages 34

O

Oscarville 11

P

Palmer 4, 30, 48, 50, 51, 52, 53
Paxson 22
Pelican 13, 17, 37, 50
Pilot Point 7, 24, 35, 52
Pilot Station 10
Platinum 11
Port Alexander 17
Portage 5
Portage Creek 24
Pribilof Islands 20, 52
Pribilof REAA 20
Prince William Sound 8, 18, 50

Q

Quinhagak 11

R

Russian Mission 10

S

St. George 8, 20, 51
St. Mary's 10, 52
St. Paul 8, 20, 51
Scammon Bay 10
Seldovia 5, 37, 51, 52
Seward 36, 37
Sheldon Point 10
Shemya 19
Sitka 16, 17
Skagway 14, 17
Slana 23
Sleetmute 12
Soldotna 37
Stony River 12

Index Continued

T

Takotna 36
Talkeetna 36
Tanacross 22
Tatitlek 50
Tazlina 23
Tenakee Springs 13, 17
Tetlin 22
Thorne Bay 5
Togiak 24, 52
Tok 22, 51
Toksook Bay 11
Tonsina 23
Tuluksak 11, 38
Tuntutuliak 11
Tununak 11, 38
Twin Hills 24
Tyonek 36

U

Unalaska 8, 21, 52
Upper Kalskag 12
Upper Lynn Canal 14
Upper Tanana Basin 22

V

Valdez 18, 50

W

Wasilla 5, 51
Western Aleutian 51
Western Aleutian/Pribilofs 8
Whitestone Logging Camp 51
Whittier 5, 18, 50, 51
Wrangell 37

Y

Yakutat 3, 6, 15, 17, 33, 50, 51
Yakutat Borough 15, 50
Yukon-Kuskokwim 38
Yupiit REAA 11, 52

I. ROLE OF LOCAL BOUNDARY COMMISSION

Article X of Alaska's Constitution created the Local Boundary Commission (also referred to as "LBC" or "Commission"). The Commission is responsible for establishing and modifying municipal government boundaries. Those Alaskans who drafted the State's Constitution believed that local governments should have authority to determine which powers they would exercise, but that the State should set municipal boundaries because "local political decisions do not usually create proper boundaries."¹ Placing decision-making authority with a State body allows arguments for and against boundary changes to be analyzed objectively, taking areawide and statewide needs into account.²

The Alaska Constitution also called for establishment of an agency in the executive branch of the State government to advise and assist local governments (Art. X, Sec. 14). The Department of Community & Regional Affairs (DCRA) is that agency. In addition to its more general duty to aid local governments, DCRA provides staff, research and assistance to the Local Boundary Commission. The Commission's DCRA staff investigates proposed municipal boundary actions and prepares reports to the LBC conveying DCRA's recommendations. However, the Commission is independent in policy matters.

The LBC and its DCRA staff consider a variety of types of proposals which require setting or moving municipal boundaries. These include; incorporation, annexation, detachment, dissolution, merger and consolidation. They also provide a variety of technical information concerning municipal government matters to agencies, communities and individuals. Alaska law also provides the LBC with special authority to study local government boundary problems.

The Commission is comprised of five members appointed by the Governor for staggered five-year terms. The chairperson is appointed from the state at-large. To ensure statewide representation, each of the other members are appointed from one of the state's four judicial districts.

Current members of the Local Boundary Commission are:

Darroll Hargraves, Chairperson

Commissioner Hargraves is a resident of Ketchikan. He joined the Commission in March, 1991 and was appointed Chairperson on May 27, 1992. Commissioner Hargraves has been a school superintendent in Ketchikan and Nome and has taught school in Barrow, Kivalina and Gambell. He has also been an administrator at the University of Alaska, Fairbanks. Mr. Hargraves currently works as a communications and management consultant. His term expires on January 31, 1997.

¹ Minutes, 18th Meeting, Local Government Committee at the Constitutional Convention.

² Fairview Public Utility District No. 1 v. City of Anchorage, 368 P.2d 540 (Alaska 1962).

LOCAL BOUNDARY COMMISSION

Shelley Dugan, Vice-Chairperson, 4th Judicial District

Commissioner Dugan resides in Fairbanks. She was appointed to the Commission in September, 1987. In 1988, she was elected Vice-Chairperson. Ms. Dugan is owner-operator of a small business and serves as the Clerk/Treasurer for the City of North Pole. Her term expires January 31, 1995.

Lamar Cotten, 3d Judicial District

Commissioner Cotten works and lives in Anchorage. He was appointed to the Commission in August, 1988. Commissioner Cotten has extensive experience as a municipal manager at both the city and borough levels. His term expires January 31, 1993.

Myrtle Johnson, 2d Judicial District

Commissioner Johnson began her present term on the Commission in March, 1991. She earlier served on the LBC under Governor Miller. Ms. Johnson resides in Nome and works at the Nome Senior Citizens' Center. Her term expires on January 31, 1994.

Frances Hallgren, 1st Judicial District

Commissioner Hallgren resides in Sitka. She was appointed to the Commission on May 27, 1992. She has been employed for the past seven years as a legal secretary. She holds a degree in music education and has held an Alaska Teaching Certificate. She also operates a home custom sewing business. She served in the Alaska National Guard, is an NRA certified pistol and rifle instructor and is a licensed ham radio operator. Her term expires on January 31, 1996.

II. LOCAL BOUNDARY COMMISSION DECISIONS IN 1992

The Local Boundary Commission met on 32 occasions in 1992.³ The Commission conducted public meetings to deliberate on ten petitions for annexation of territory to cities.⁴ Numerous public meetings and hearings were also conducted regarding incorporation of the City & Borough of Yakutat. Further hearings and meetings were held on subjects ranging from model borough boundaries to special issues and policy matters. Residents of dozens of other communities attended LBC meetings by teleconference.

This section briefly summarizes petitions processed by the Commission in 1992.⁵

1992 Legislative Review Annexations Article X, Section 12, Alaska Constitution

Cordova

The City of Cordova filed a petition for annexation of about 180 square miles with approximately 469 residents. On November 21, 1992, the Commission conducted a public hearing in Cordova. On January 4, 1992, the Commission amended the petition to reduce the size of the area proposed for annexation to 68.23 square miles and approved the amended petition.

The formal recommendation for annexation, including a map and written description of the territory approved for annexation, is presented in Section VII of this report.

Haines

The City of Haines submitted a petition to annex about 4.75 square miles of land under the legislative review method. On October 9, 1992, the LBC conducted a public hearing in Haines. Subsequent to the hearing, the Commission approved the City of Haines' petition for annexation of 4.75 square miles. Before acting on DCRA's recommendation for the annexation of the additional 7 square miles, the Commission provided an additional comment period, setting a November 27, 1992 deadline. On December 18, the Commission approved the annexation of the additional 7 square miles.

Final approval of the two annexations is sought from the legislature under Article X, Section 12 of Alaska's Constitution. The formal recommendations for the two annexations including maps and written boundary descriptions are presented in Section VII of this report.

³ For a synopsis of the Commission's meetings during 1992, see Appendix A.

⁴ These included legislative review annexation petitions from Cordova, Palmer, Hoonah, Haines and local action petitions from Palmer (2), Wasilla, Thorne Bay, and Seldovia (2).

⁵ The procedures and standards for all boundary change actions are summarized in Appendix B.

LOCAL BOUNDARY COMMISSION

Hoonah

The City of Hoonah submitted a petition to annex about 18.5 square miles under the legislative review method.

The Commission conducted a public hearing in Hoonah on October 10, 1992. On November 21, the Local Boundary Commission amended and approved the annexation petition of the City of Hoonah. The amendment reduced the territory approved for annexation to approximately 7.25 square miles.

Final approval for the annexation is sought from the legislature under Article X, Section 12 of Alaska's Constitution. The formal recommendation for the annexation, including a map and written boundary description, is presented in Section VII of this report.

Palmer

On February 28, 1992, the City of Palmer filed a petition for annexation of approximately 7.5 acres using the legislative review method.

The Commission conducted a public hearing on November 20 in Palmer. Following the hearing, the Commission provided that the record remain open for the filing of additional comments until November 30. The Commission met to render a decision on the petition on December 4 and continued its deliberation on December 18, 1992. On December 18, the Commission approved the petition.

Final approval for the annexation is sought from the legislature under Article X, Section 12 of Alaska's Constitution. The formal recommendation for the annexation, including a map and written boundary description, is presented in Section VII of this report.

1992 Local Action Annexations - AS 29.06.040(c)

Palmer - William Fogg Property

On July 20, the Commission approved a petition for annexation of about 2 acres described as the William Fogg property on South Chugach Street.

Palmer - 35 Acres Municipally Owned Property

On February 26, 1992, the Commission rejected a petition by the City of Palmer to annex approximately 35 acres of City owned property. The petition was denied since the municipally owned property was not contiguous to the City boundaries.

Seldovia - 110 Acres of Municipally Owned Property

The topography of Seldovia was drastically altered as a result of the 1964 earthquake. This led to confusion over the jurisdictional boundaries of the City. Officials of the City of Seldovia recently discovered that the corporate boundaries of the City did not extend as far as had been previously thought. Consequently, the City of Seldovia petitioned for the annexation of all of the City-owned property (including the boat harbor) which was outside of its boundaries. The area in question totaled 110 acres. On September 25, 1992, the LBC approved the annexation. Doing so, however, left approximately 50 privately owned lots as enclaves within the boundaries of the City. City officials committed to the annexation of these enclaves.

Seldovia - 10 Acres of Privately Owned Property

Following the September 25 annexation, the owners of approximately 15 of 50 lots existing as enclaves within the boundaries of the City of Seldovia petitioned the City for annexation. On November 21, the LBC approved the annexation of these lots comprising approximately 10 acres. The annexed territory is inhabited by 12 residents. The City of Seldovia is planning a legislative review annexation proposal to be filed in the spring of 1993. That proposal will include at least the 35 lots which remain as enclaves within the boundaries of the City. The City may also seek the annexation of outlying territory.

Thorne Bay

On November 21, the LBC approved a petition for the annexation of approximately 3,800 acres of State-owned lands to the City of Thorne Bay.

Wasilla

On July 20, 1992 the LBC approved the petition of the City of Wasilla for the annexation of 253.52 acres of City-owned (airport site) property.

Petitions Filed and Later Withdrawn

Portage

In March of 1992, the City of Whittier filed a petition seeking the annexation of approximately 80 square miles encompassing the community of Portage. Because Portage is already within the boundaries of the Municipality of Anchorage, the petition also sought to detach the area in question from the Municipality of Anchorage. The City of Whittier withdrew the petition in July because of a lack of support from Portage residents and property owners.

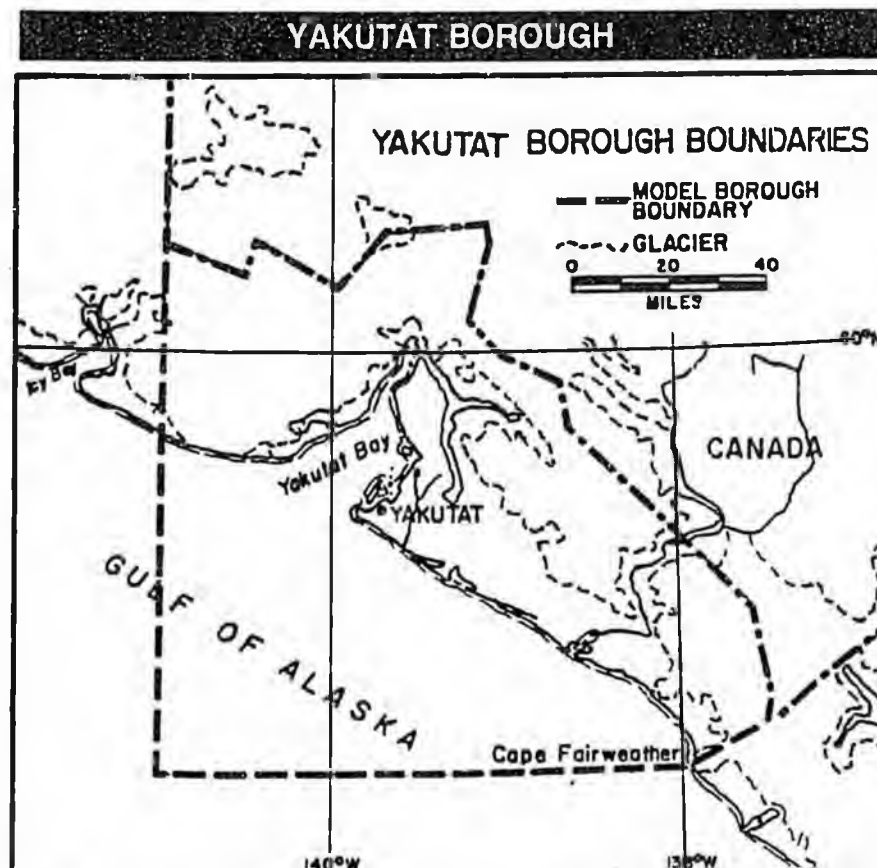
LOCAL BOUNDARY COMMISSION

1992 Municipal Incorporations

Yakutat Borough

On March 17, 1992, the LBC amended and approved the petition for incorporation of Alaska's 16th organized borough, the City and Borough of Yakutat. At the same time, the Commission approved the dissolution of the City of Yakutat. The western boundary was set at the 141st meridian (110 miles east of the petitioners' proposal). The 141st meridian conforms to the boundary between REAAs, ANCSA regional corporations and judicial districts. The southern boundary was moved 70 miles north to Cape Fairweather. The LBC received twelve requests for reconsideration. On May 22, 1992, the Commission completed its review of the requests for reconsideration. All twelve requests were rejected.⁶ Yakutat petitioners and the Chugach Alaska Corporation subsequently filed appeals with the Superior Court.

On September 4, the U.S. Justice Department granted Voting Rights Act preclearance of the proposed incorporation and related changes. The election was conducted as scheduled on September 8. The Division of Elections certified the results of the Yakutat incorporation election on September 22, 1992. 232 votes were cast for incorporation; 23 were cast in opposition.



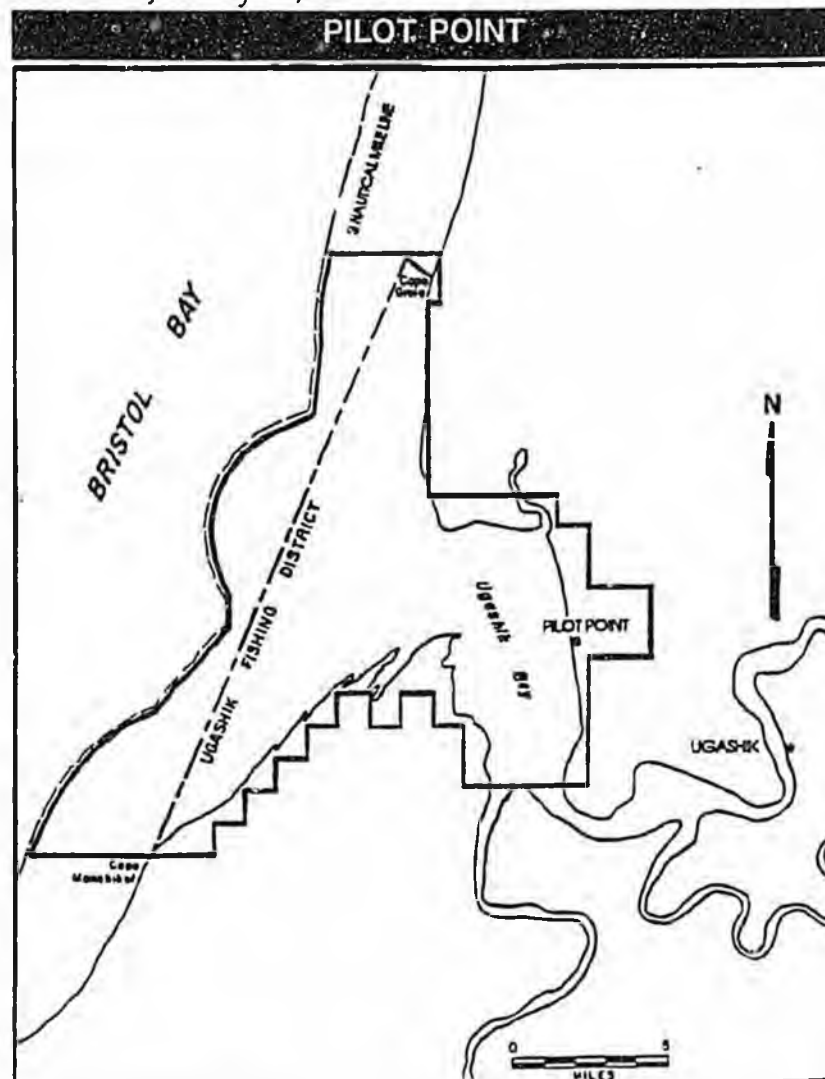
⁶ These were submitted from Sitka Sound Seafoods, Yakutat Borough Petitioners, Senator Eliason, Sealaska Corporation, Yak-Tat Kwaan, University of Alaska, "Yakutat Fishermen", Ken Fanning, owners of Native Allotments, the City of Whittier, Representative Mackie and Chugach Alaska Corporation.

City of Pilot Point

In October, 1990, voters in the community of Pilot Point petitioned to incorporate as a second class city. Pilot Point is a Lake & Peninsula Borough community of 50 to 80 permanent residents on the east shore of Ugashik Bay.

The LBC held its public hearing on the petition on October 12, 1991. At the decisional meeting immediately following the hearing, the LBC approved the petition, with minor changes to the boundary description, as recommended by DCRA. At the request of petitioners, the LBC ordered that voter approval of incorporation be contingent upon voter approval of a 3% sales and use tax on commercially caught fish. The LBC also deleted the provision for a property tax, which had been inadvertently included in the petition.

On January 7, 1992, Pilot Point residents voted 33 to 8 in favor of incorporation. Pilot Point voters also authorized the City to levy a 3% raw fish tax. The City of Pilot Point became Alaska's 165th municipal government upon certification of the incorporation election by the Division of Elections on January 22, 1992.



III. MAJOR PROJECTS

Model Borough Boundaries Project

On December 4, 1992, the Commission set model unorganized borough boundaries for the Dillingham/Nushagak area. That action was especially significant since it marked the conclusion of three years of public hearings and meetings on model borough boundaries statewide. The LBC has now adopted model boundaries for the entire unorganized borough. During the course of the model boundaries study, the Commission held public hearings in 88 separate communities. The extensive public hearing process familiarized the Commission with existing and potential regional government boundary issues throughout Alaska.

In 1992, the LBC held model borough boundary hearings in 22 communities in the following six regions:

Southeast;
Prince William Sound;
East Central (Delta Greely, Copper River, Alaska Gateway);
Calista, (Lower Yukon, Lower Kuskokwim, Kuspuk);
Western Aleutian/Pribilofs (Adak, Unalaska, St. George-St. Paul);
Greater Bristol Bay.

Every LBC decision regarding borough boundaries affects three groups; residents within the proposed boundaries, people of the adjacent areas and the state as a whole. Formation of new regional governments is a sensitive issue in Alaska. Lawsuits or long-standing boundary disputes tend to erupt each time a borough incorporation or annexation proposal is advanced. On the basis of such factors, the LBC concluded that, rather than examining regional boundaries only when petitions are lodged, the Commission would invite public testimony from throughout the entire state and adopt 'model' boundaries. Such 'model' boundaries will be used as a frame of reference to help evaluate future petitions. They will be considered when existing organized boroughs seek to annex unorganized borough territory or when unorganized borough residents petition for borough incorporation.

The Commission and its DCRA staff began planning the model boundary study in mid-1989. The Commission decided to focus first on the areas for which petitions for incorporation or annexation were pending. Research on the project began in earnest in 1990.

The LBC began its study of each area by sending out a large eight-page tabloid which explained the study and set out the questions the LBC expected to consider in its decision-making process. Each tabloid included a map on which recipients were requested to draw suggested boundaries. DCRA prepared and widely distributed a report of its findings and recommendations for the area, and then the LBC held hearings in as many communities as resources allowed.

The study prompted residents and organizations throughout the state to articulate where they believed future boundaries should be set. Municipal governments and other public and

private local and regional organizations helped execute the model boundaries project. Many hundreds of interested parties provided written comment or oral testimony.

Completion of the study renders the LBC and DCRA much better prepared to evaluate future petitions. A wealth of information and public comment was obtained in the study process.

'Model' boundaries are not rigid or unchangeable. Petitioners for borough incorporation or alteration of existing borough boundaries can successfully propose different boundaries if they make a specific and persuasive showing to the Commission why other boundaries are more appropriate.⁷

Conclusion

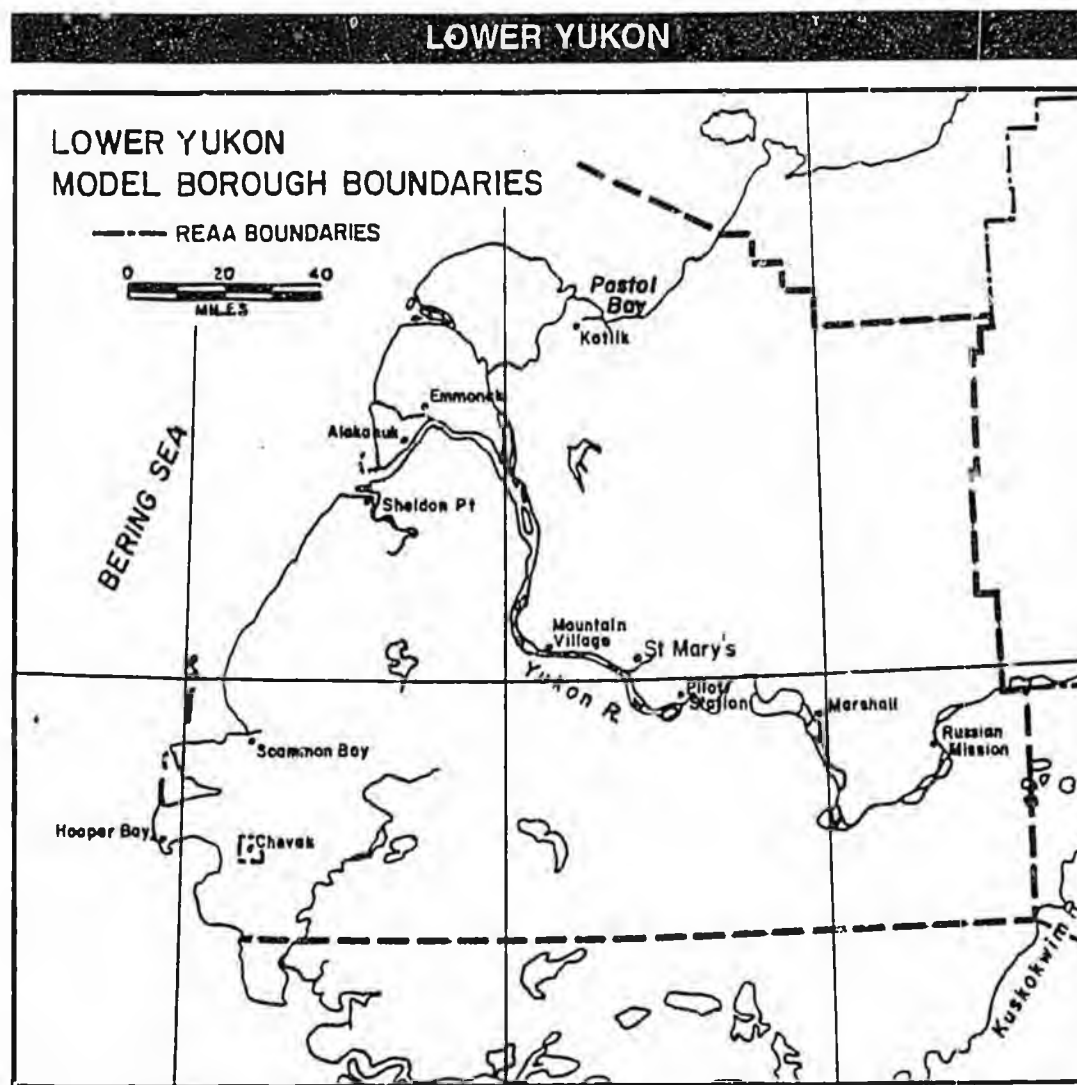
The goal of the study has been achieved. The Commission has developed a useful tool for long-term regional government boundary planning. The LBC based its model boundaries map upon extensive testimony from throughout Alaska. Alaskans have become better acquainted with the LBC, borough incorporation standards and their neighbors' perspectives. A statewide map of model boundaries adopted by the Commission is shown on pages 26 and 27 of this report.

⁷ 19 AAC 10.060(b) and 19 AAC 10.190(c).

LOCAL BOUNDARY COMMISSION

Lower Yukon Model Unorganized Borough

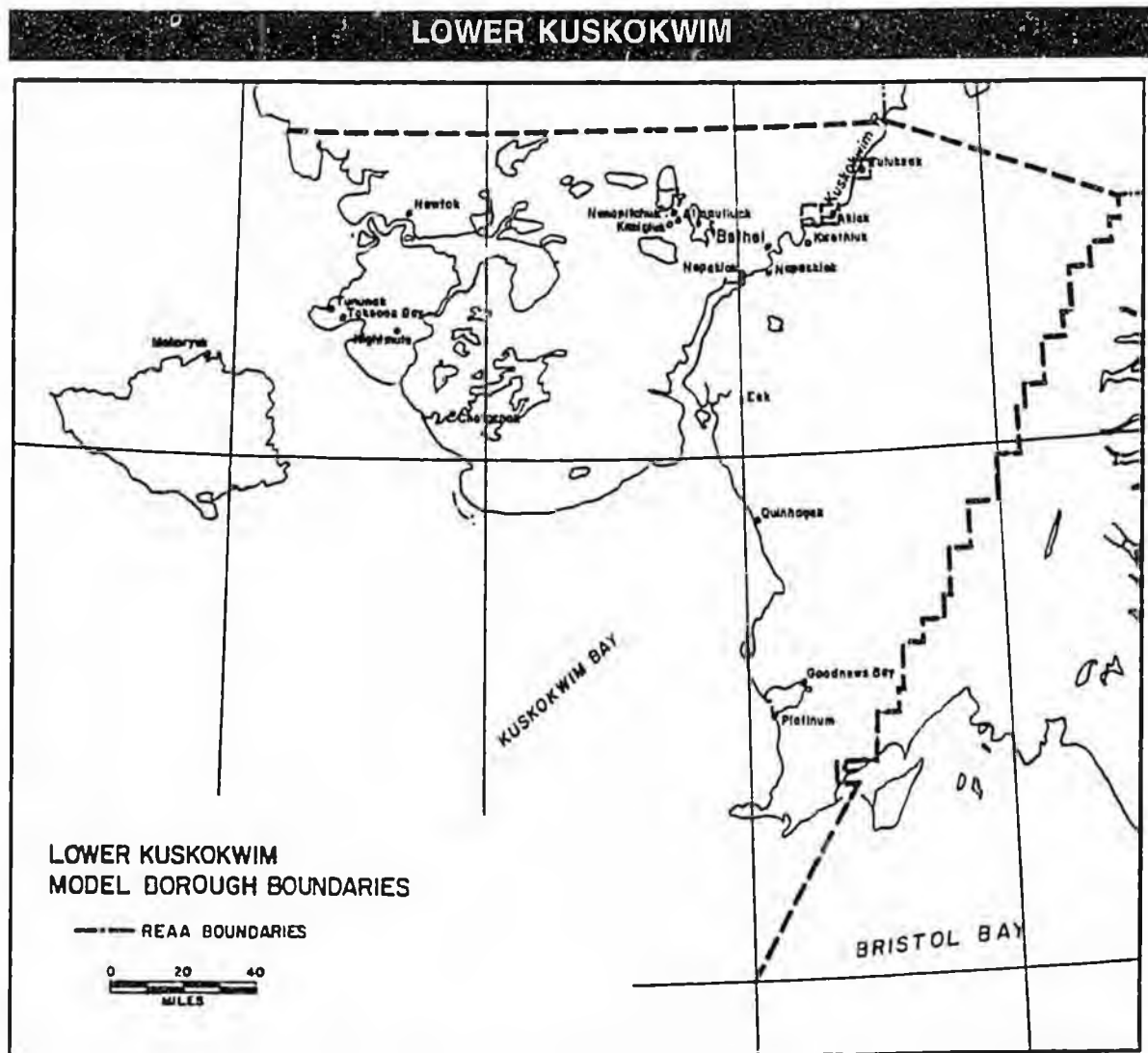
Model borough boundaries for this area combined the Lower Yukon and Kashunamiut REAAs, the first class City of St. Mary's and eleven second class cities. These are Alakanuk, Chevak, Emmonak, Hooper Bay, Kotlik, Marshall, Mountain Village, Pilot Station, Russian Mission, Scammon Bay and Sheldon Point. The area's population totals approximately 5,791. The LBC held model borough boundary hearings in St. Mary's on October 23, 1992.



Lower Kuskokwim Model Unorganized Borough

Model borough boundaries for this area are based upon boundaries of the Lower Kuskokwim and Yupiit REAAs. The LBC held model borough boundary hearings in Bethel on October 24, 1992. On November 21, 1992, the Local Boundary Commission set Lower Yukon, Lower Kuskokwim and Kuspuk model boundaries.

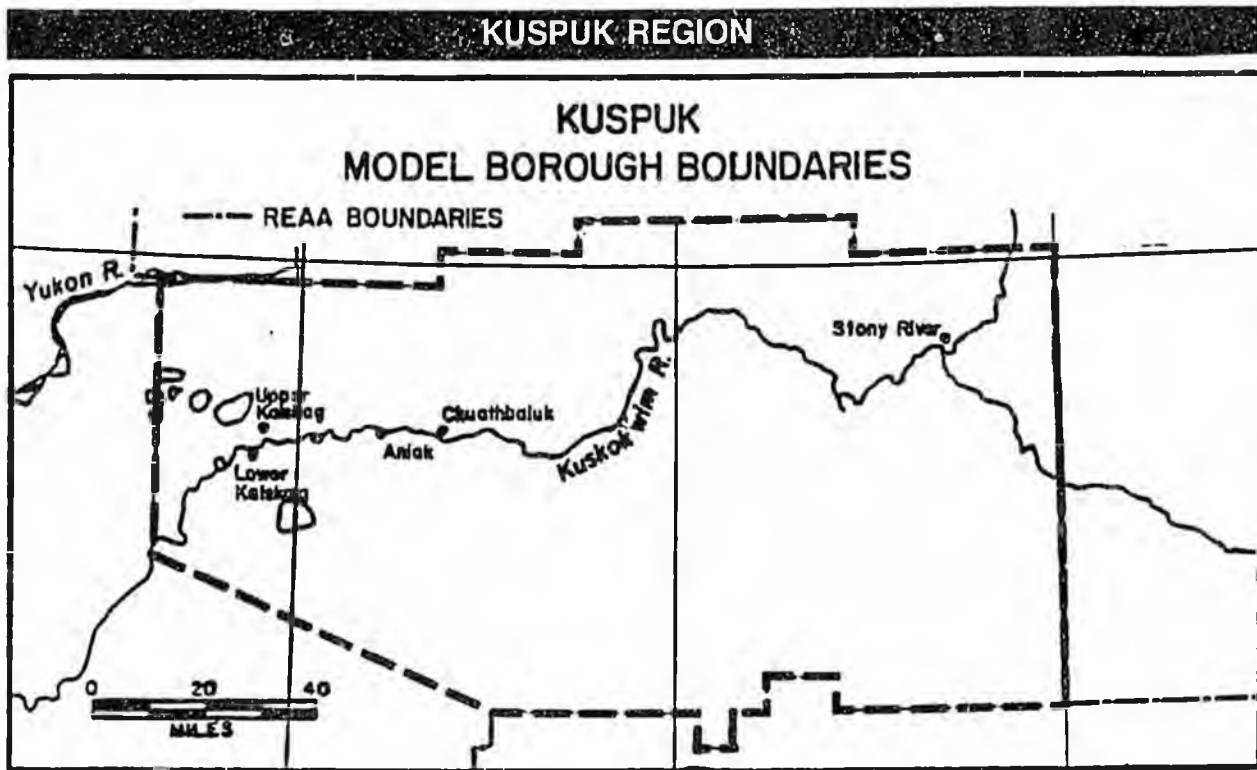
Twenty-five communities with a total population of approximately 12,125 are included in this area. These include Akiachak, Akiak, Atmoutluak, Bethel, Cheformak, Eek, Goodnews Bay, Kasigluk, Kipnuk, Kongiganak, Kwethluk, Kwigillingok, Mekoryuk, Napakiak, Napaskiak, Newtok, Nightmute, Nunapitchuk, Oscarville, Platinum, Quinhagak, Toksook Bay, Tuluksak, Tuntutuliak, and Tununak.



LOCAL BOUNDARY COMMISSION

Kuspuk Region Model Unorganized Borough

Kuspuk unorganized borough model boundaries follow the Kuspuk REAA boundaries. The LBC conducted a public hearing in Aniak on October 23, 1992. The area has about 1,490 residents distributed among Aniak, Chuathbaluk, Crooked Creek, Sleetmute, Stony River, Upper Kalskag and Lower Kalskag.



Glacier Bay Model Unorganized Borough

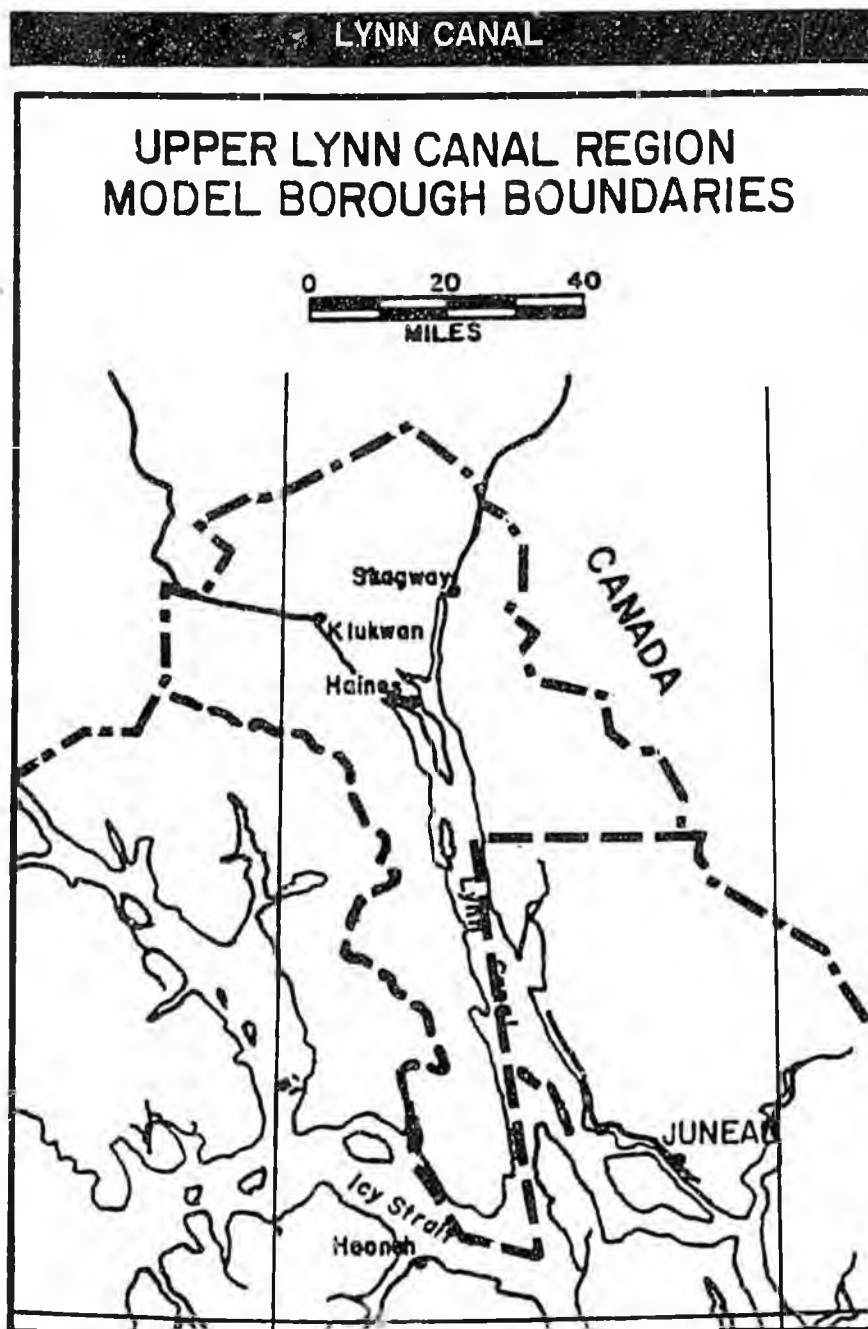
The LBC conducted hearings on model boundaries for this region in Hoonah, Pelican and Gustavus in January, 1992. After taking testimony, the LBC defined Glacier Bay model borough boundaries extending from Cape Fairweather to Chatham Strait. These model boundaries encompass Glacier Bay and the communities of Elfin Cove, Pelican, Hoonah, Gustavus and Tenakee Springs. The area had a 1990 population of 1,858. The Commission set model boundaries for the region on May 8, 1992.



LOCAL BOUNDARY COMMISSION

Upper Lynn Canal - Haines Borough

The LBC identified model boundaries encompassing the area within the present Haines Borough as well as Skagway and Klukwan. The area had a 1990 population of 2,938. The Commission set Upper Lynn Canal model boundaries on May 8, 1992.



Glacier Bay Model Unorganized Borough

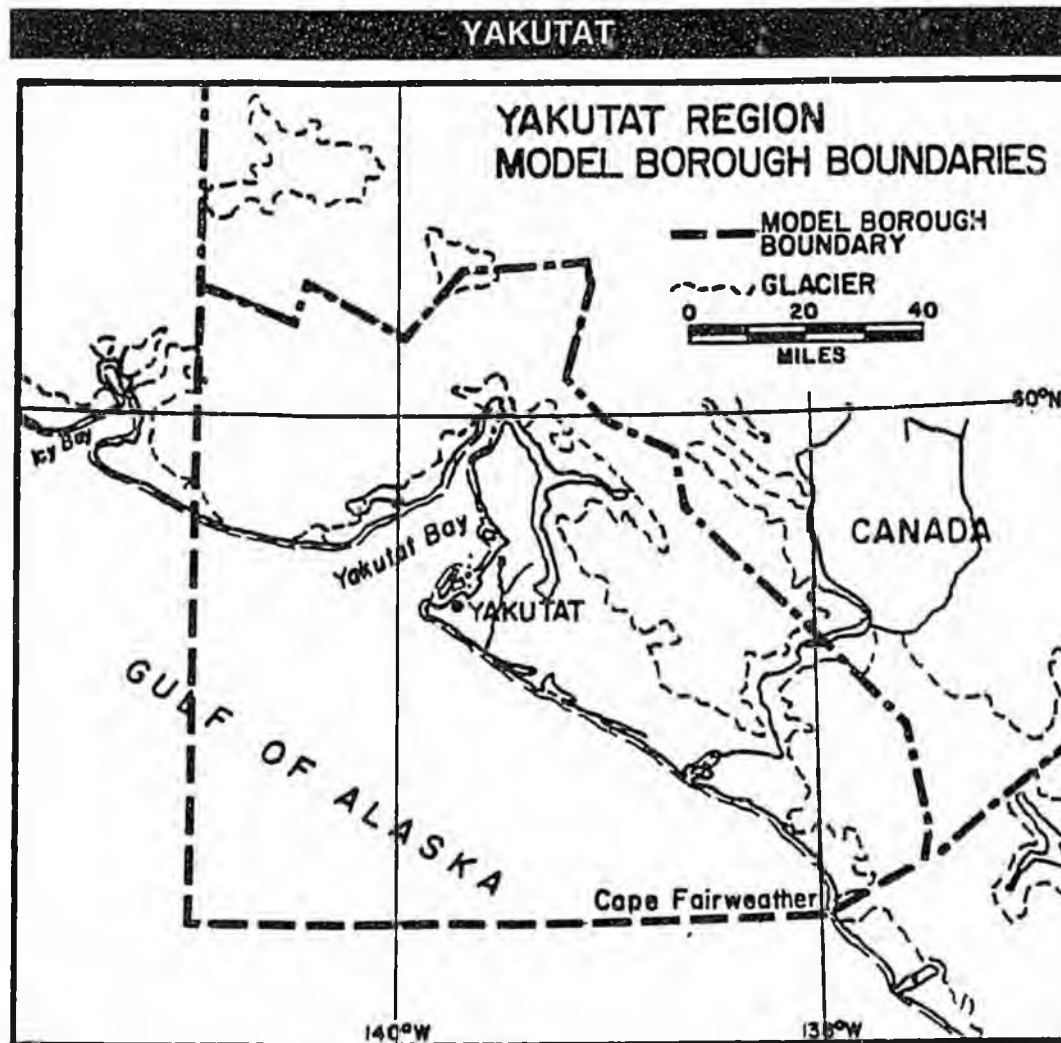
The LBC conducted hearings on model boundaries for this region in Hoonah, Pelican and Gustavus in January, 1992. After taking testimony, the LBC defined Glacier Bay model borough boundaries extending from Cape Fairweather to Chatham Strait. These model boundaries encompass Glacier Bay and the communities of Elfin Cove, Pelican, Hoonah, Gustavus and Tenakee Springs. The area had a 1990 population of 1,858. The Commission set model boundaries for the region on May 8, 1992.



Yakutat Borough

Yakutat model boundaries set by the LBC are identical to those approved for incorporation. The amended Yakutat model boundaries encompassed approximately 4,224 square miles with boundaries extending from the 141st Meridian to Cape Fairweather. The area has a population of approximately 705.

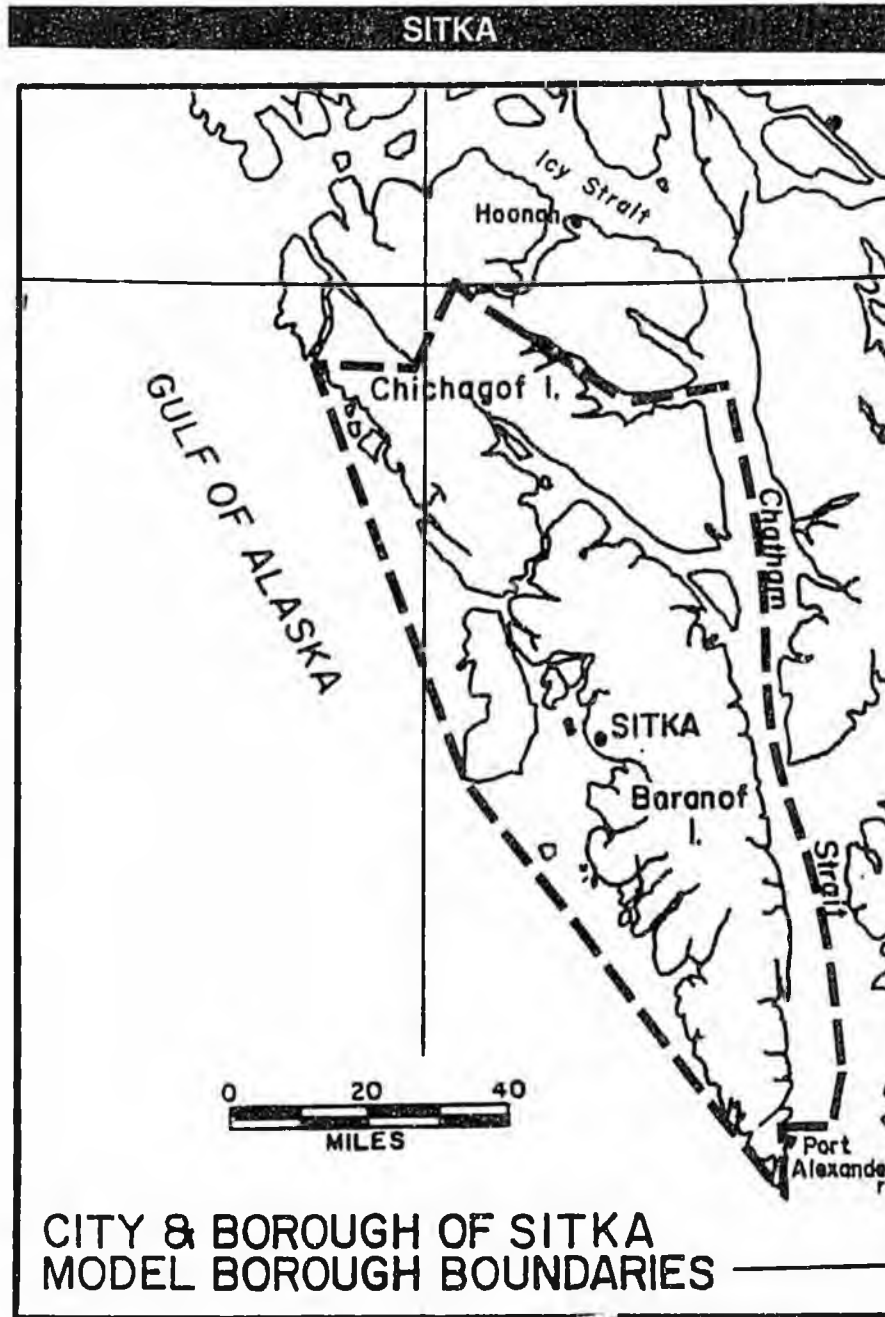
(The Yakutat Borough incorporation is more fully discussed in Section II of this report.) The Commission set Yakutat model boundaries on May 8, 1992.



LOCAL BOUNDARY COMMISSION

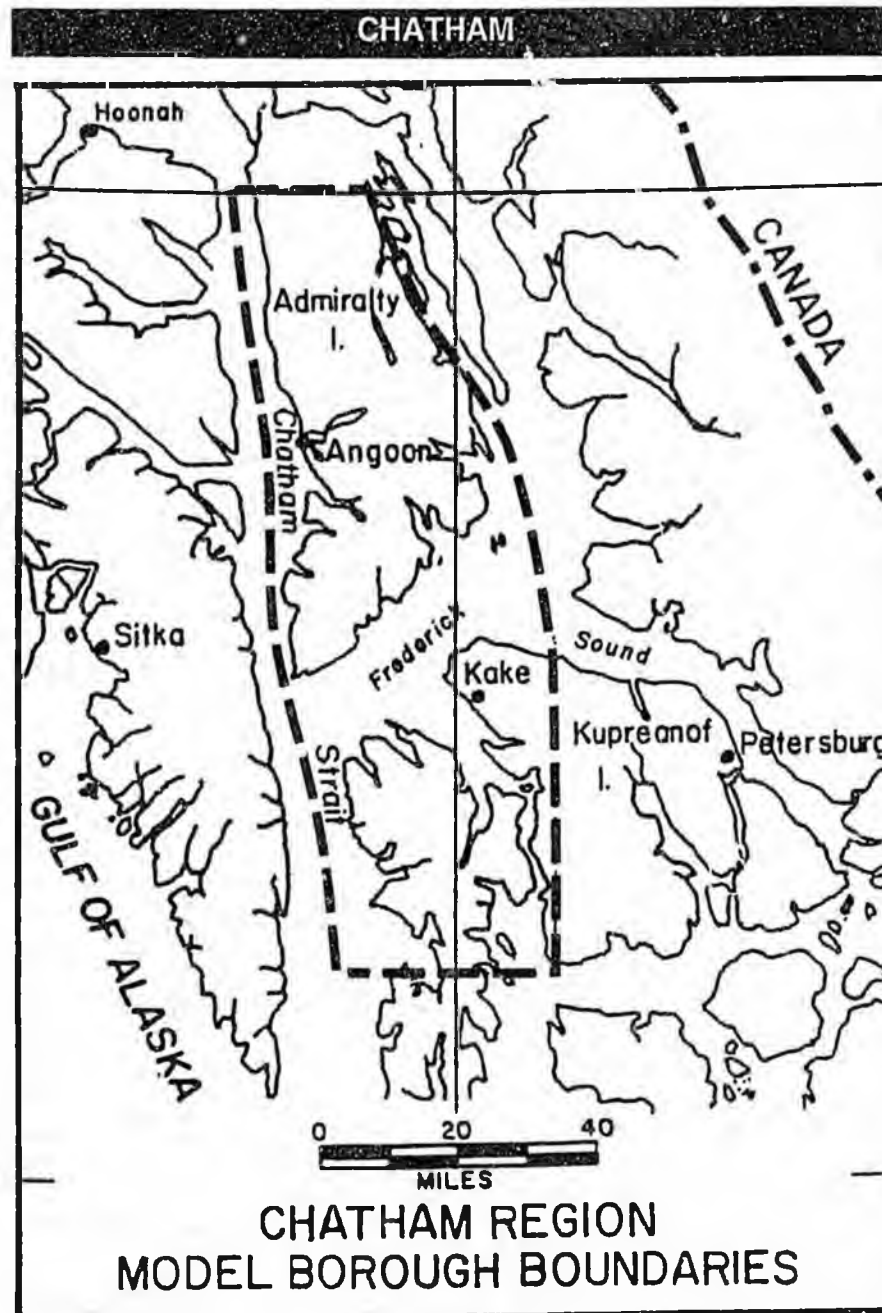
City and Borough of Sitka

Model boundaries for the City & Borough of Sitka were identified as the same as its existing boundaries, which encompass 4,849 square miles and a population of 8,588. The Commission conducted teleconferenced public hearings regarding the area in November, 1990. The Commission set Sitka model boundaries on May 8, 1992.



Chatham Unorganized Borough

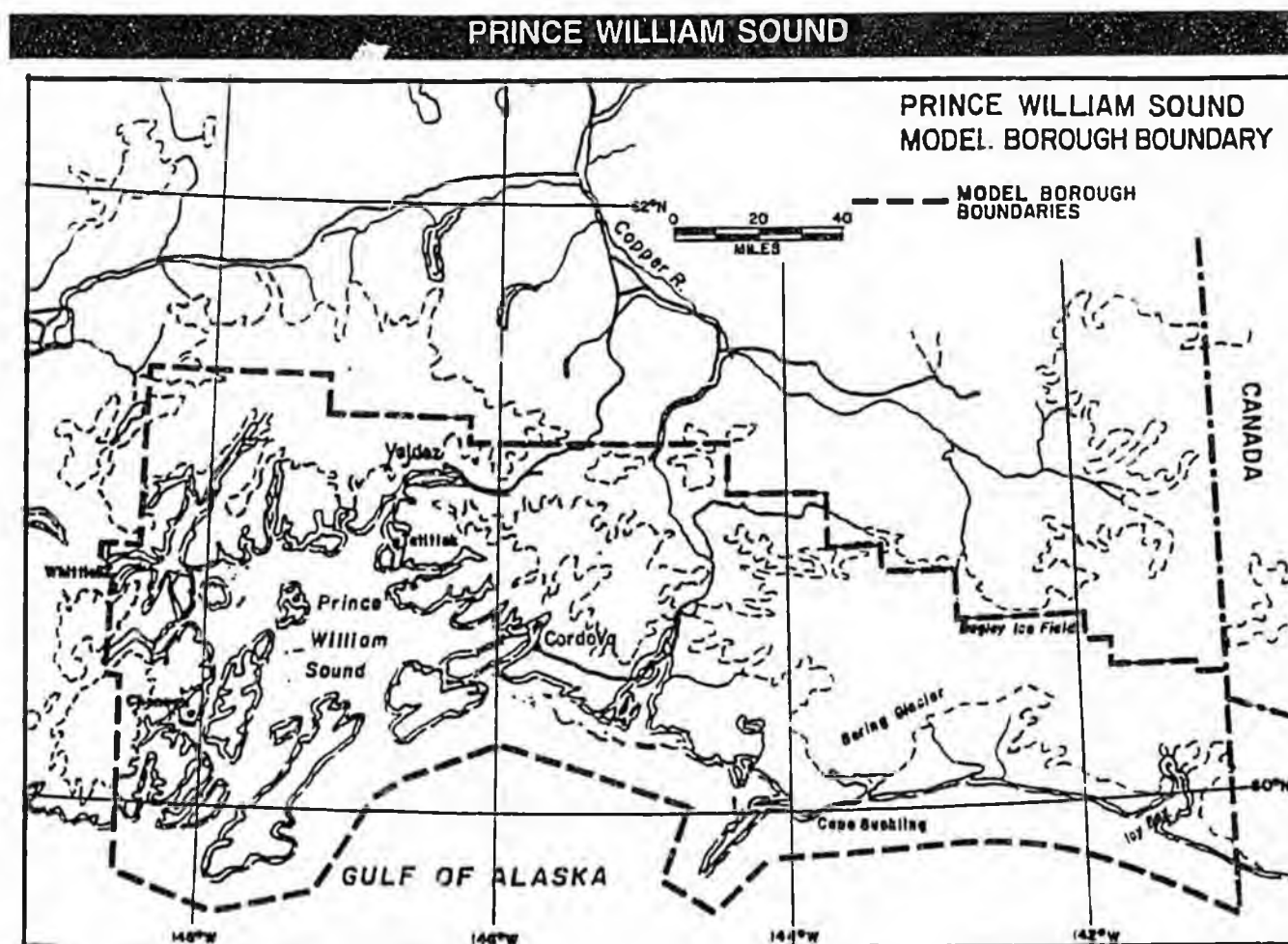
In November, 1990, the Commission conducted public hearings throughout Central Southeast Alaska. Parties in Gustavus, Haines, Skagway, Yakutat, Tenakee Springs, Pelican, Sitka, Elfin Cove, Port Alexander, Angoon, Hoonah, Kake and Cube Cove participated. On May 8, 1992, the Commission adopted model boundaries for the Chatham Unorganized Borough encompassing Kake and Angoon. The area had a 1990 population of 1,663.



LOCAL BOUNDARY COMMISSION

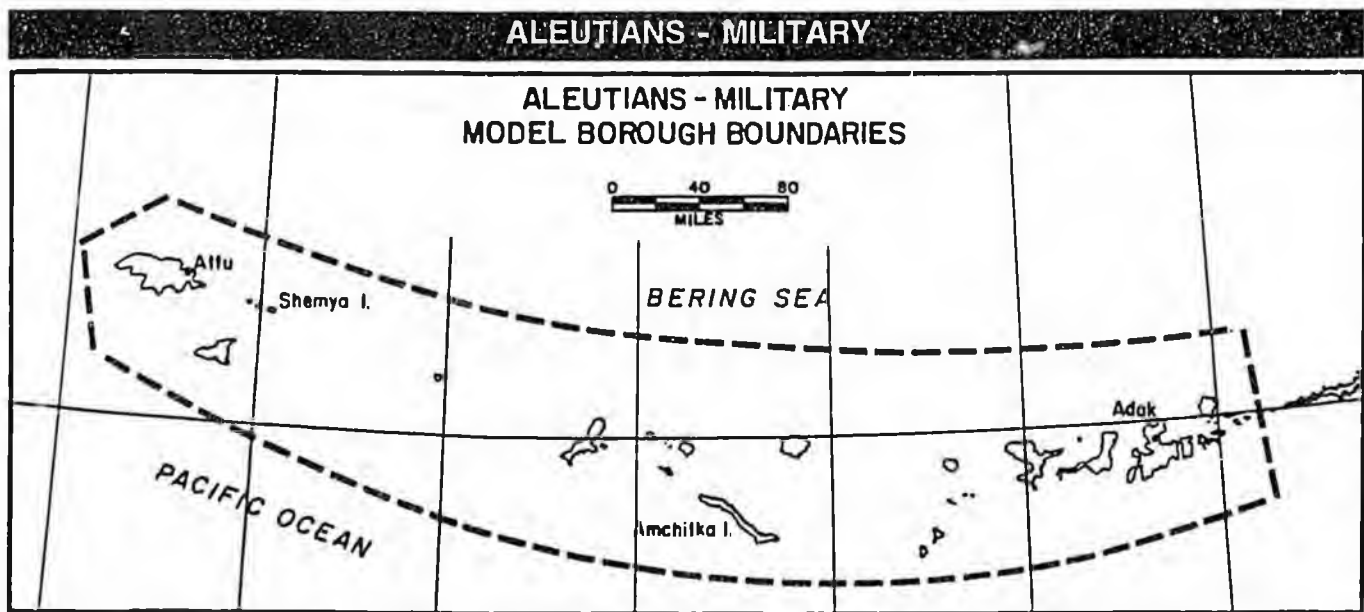
Prince William Sound Unorganized Borough

Model boundaries for this area conform to the Chugach REAA, encompassing the Cities of Cordova, Valdez and Whittier and the unincorporated communities of Chenega and Tatitlek. The area had a 1990 population of 7,189. The Commission set model boundaries for the area on May 8, 1992. The LBC conducted a public hearing in the area in January, 1992.



Aleutians - Military Unorganized Borough

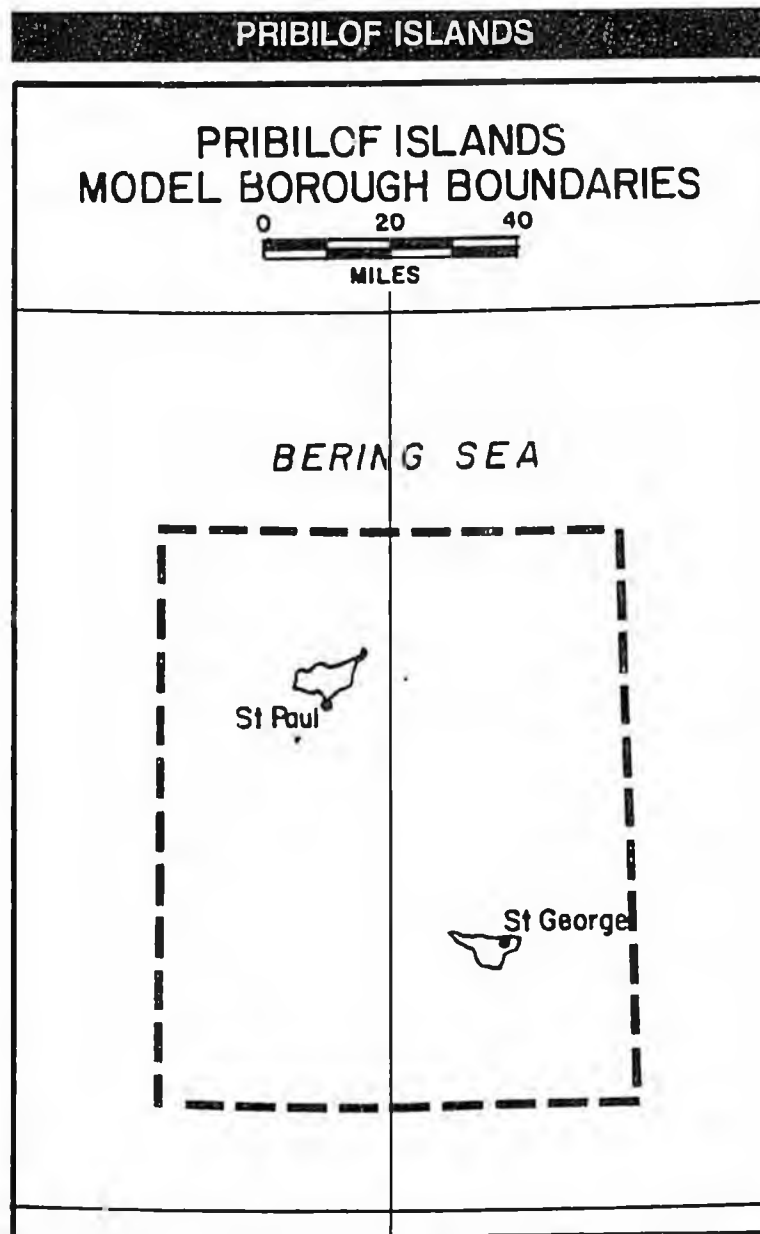
Model boundaries for this region extend from the mid-point of Fenimore Pass to the boundary of the State at the western end of the Aleutian Chain. The boundaries include the military settlements of Adak, Attu and Shemya. The area had a 1990 population of 5,345. The Commission conducted a public hearing on model boundaries via teleconference on October 21, 1992. The Commission set model boundaries for the region on November 21, 1992.



LOCAL BOUNDARY COMMISSION

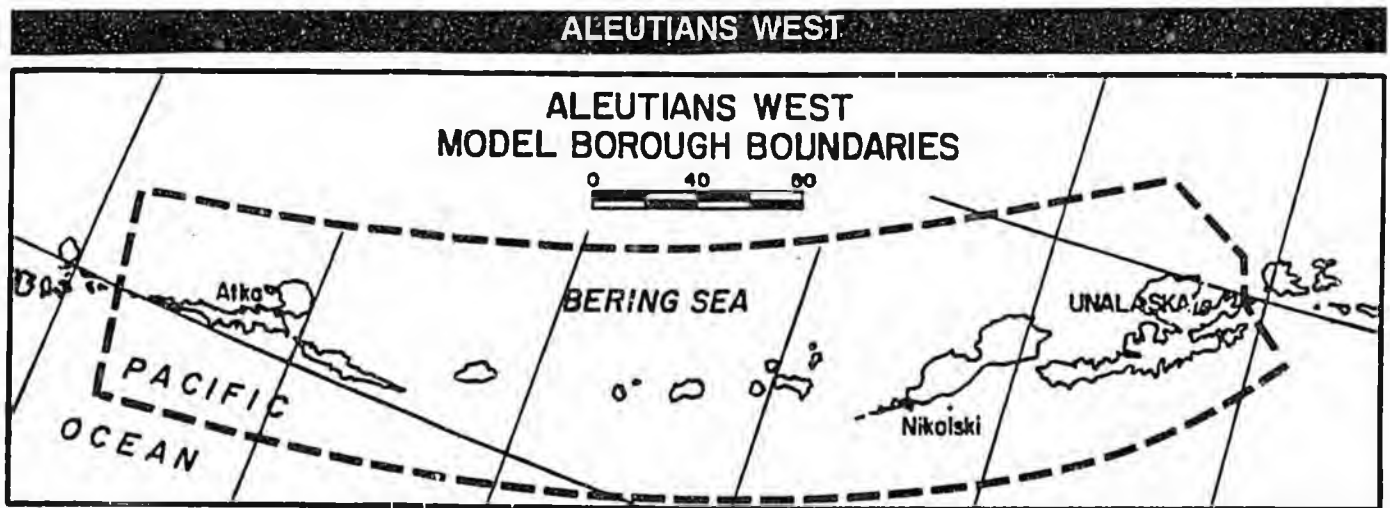
Pribilof Unorganized Borough

Model boundaries designated by the Commission conform to the Pribilof REAA and include the Cities of St. Paul and St. George. The area had a 1990 population of 901. The boundaries reflected testimony received via teleconference from representatives of St. Paul, St. George and the Tanadusix Corporation at the October 20, 1992, public hearing. The Commission set model boundaries for the area on November 21, 1992.



Aleutians West Unorganized Borough

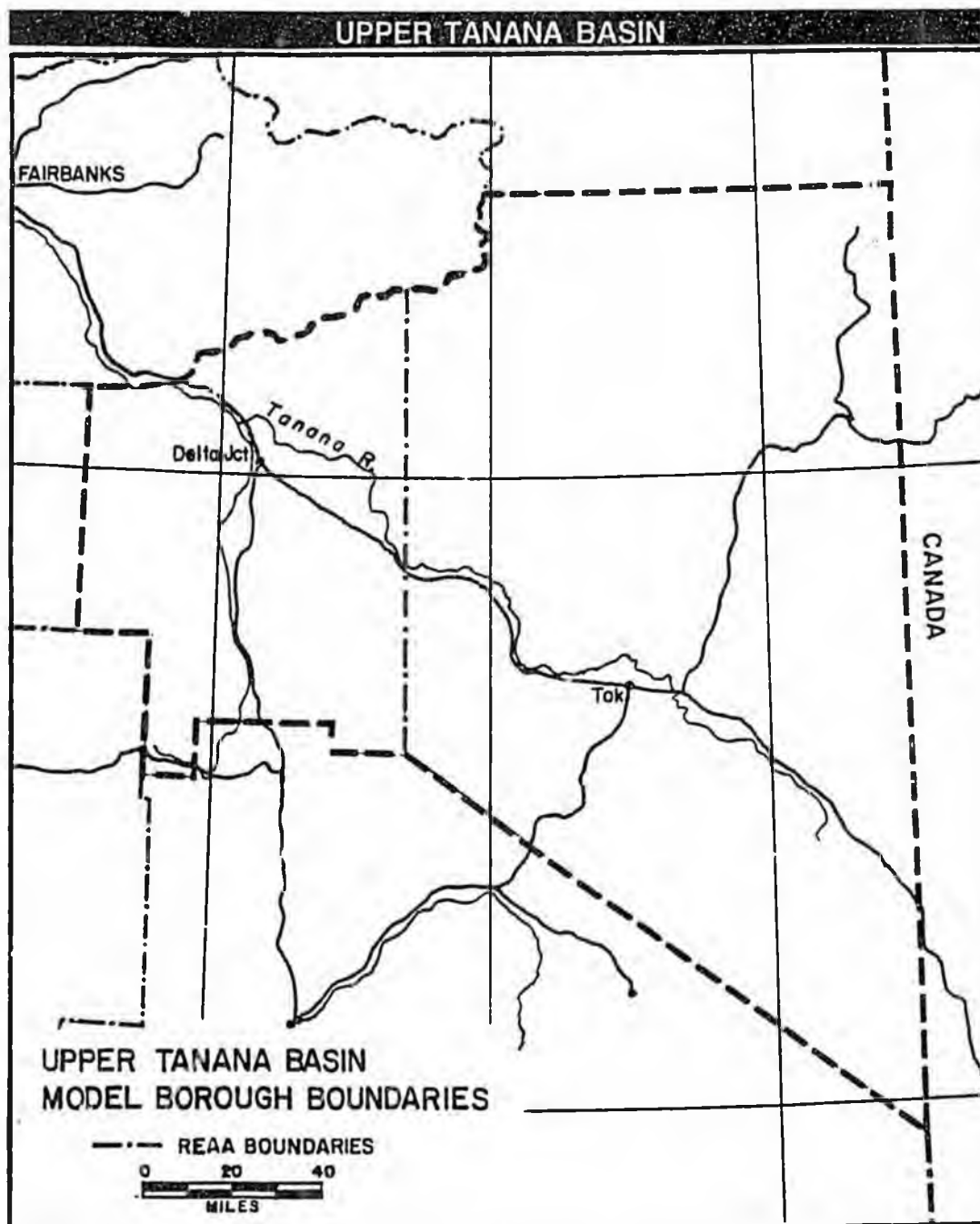
Boundaries designated by the Commission extend from the western boundary of the Aleutians East Borough to the mid-point of Fenimore Pass, including Atka, Nikolski and Unalaska. The area had a 1990 population of 3,232. The LBC received testimony on model boundaries in the area through public hearings with teleconference participation from Atka, Unalaska and Akutan on November 5. The Commission set model boundaries for the area on November 21, 1992.



LOCAL BOUNDARY COMMISSION

Upper Tanana Basin Unorganized Borough

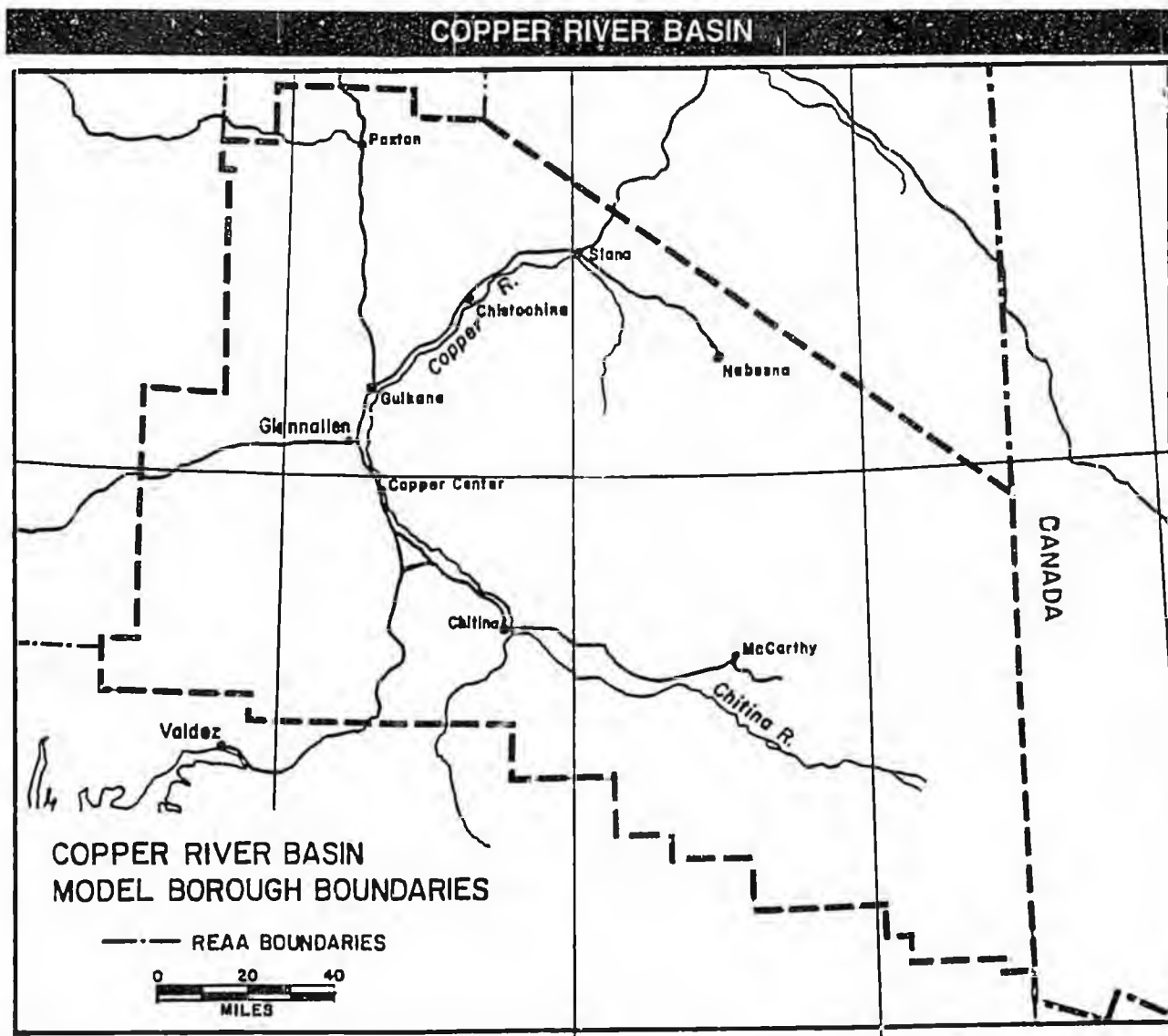
The Commission determined that the Upper Tanana Basin model boundaries should encompass the Delta Greely and Alaska Gateway REAA areas. The area had a 1990 population of 6,021. These model boundaries encompass an estimated 26,235 square miles. The LBC conducted hearings on model borough boundaries for the region in Delta Junction on May 8, 1992 and in Tok on May 9 and June 6. The Commission set model boundaries for the area on November 21, 1992. Communities within the region include two second class cities, the City of Delta Junction and the City of Eagle. Unincorporated communities in the area include Boundary, Chicken, Dot Lake, Dry Creek, the Native Village of Eagle, Fort Greely, Healy Lake, Mentasta Lake, Northway, Tanacross, Tetlin and Tok.



Copper River Basin Unorganized Borough

The LBC held a hearing on model boundaries in Glennallen on May 9, 1992. Additional information concerning the model boundaries for the Copper River Basin was provided to the Commission from residents of the region in June. On November 21, the Commission determined that the Copper Basin model unorganized borough boundaries should follow boundaries of the Copper River REAA. The area encompasses an estimated 20,649 square miles and a 1990 population of 2,638.

Copper River Basin model borough boundaries defined by the Commission conform to the boundaries of the Copper River School District, extending from the Canadian Border on the east to the boundaries of the Matanuska-Susitna Borough on the west. Communities within the area include, Chistochina, Chitina, Copper Center, Gakona, Glennallen, Gulkana, Kenny Lake, McCarthy, Paxson, Slana, Tazlina and Tonsina.



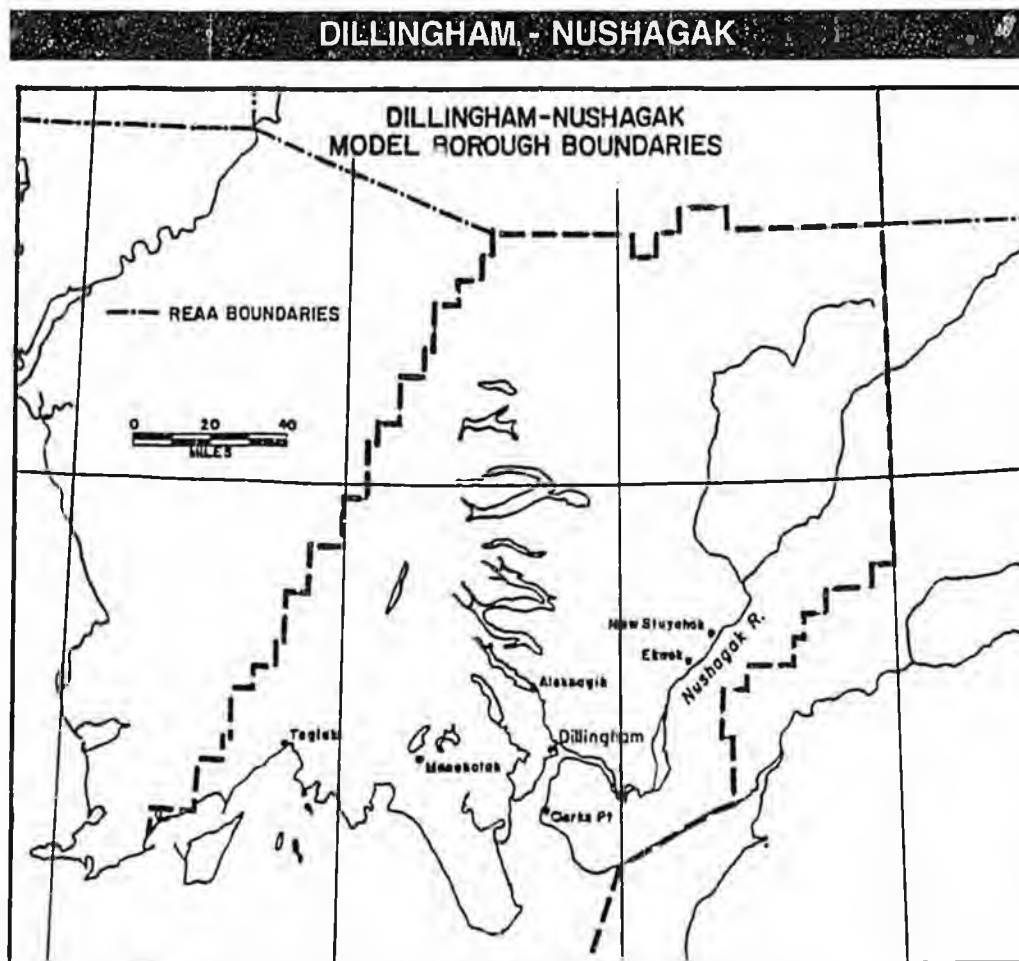
LOCAL BOUNDARY COMMISSION

Bristol Bay Study

The LBC approved Lake & Peninsula Borough incorporation in 1989. At that time, the Commission directed that staff revisit boundary questions raised during the incorporation public hearing process. In June of 1991, the City of Dillingham asked that the Commission's staff also analyze the merits of forming a "super borough" which would include the Bristol Bay Borough, the Lake & Peninsula Borough and the Dillingham Census Area.

The Commission conducted public hearings in Dillingham, Naknek and Togiak on November, 23-24, 1992. At the request of local residents, Kokhanok, Pilot Point, Chignik, Levelock, Egegik, Newhalen, Nondalton and Chignik Lake participated in the November 24 Dillingham hearing by teleconference. Most of the comment and testimony at Naknek urged that Bristol Bay Borough boundaries be left unaltered. Testimony at Togiak suggested a local preference for a Northwest Bristol Bay unorganized borough. Testimony at Dillingham suggested that boundaries based upon existing Dillingham Census Area boundaries would be most appropriate.

On December 4, 1992, the LBC identified model boundaries encompassing the existing Dillingham Census Area. Dillingham, Aleknagik, Clark's Point, Ekuk, Ekwook, Koliganek, Manokotak, New Stuyahok, Portage Creek, Togiak and Twin Hills are included in the model boundaries.



LBC Regulations

In 1991, the Commission undertook a thorough review of all of its regulations, including those relating to municipal incorporation. The LBC worked with experienced legal counsel to complete the task. The Commission adopted the new regulations on June 29, 1991.

The revised regulations were reviewed and approved by the Department of Law on June 19, 1992 and by the Lieutenant Governor on July 1, 1992. The revised regulations were fully implemented on September 14, 1992, when the U.S. Department of Justice granted preclearance under the Federal Voting Rights Act. The new regulations were published in the October, 1992, supplement to the Alaska Administrative Code. The revised regulations resolve problems found with the old rules, and are easier for petitioners to understand and use.

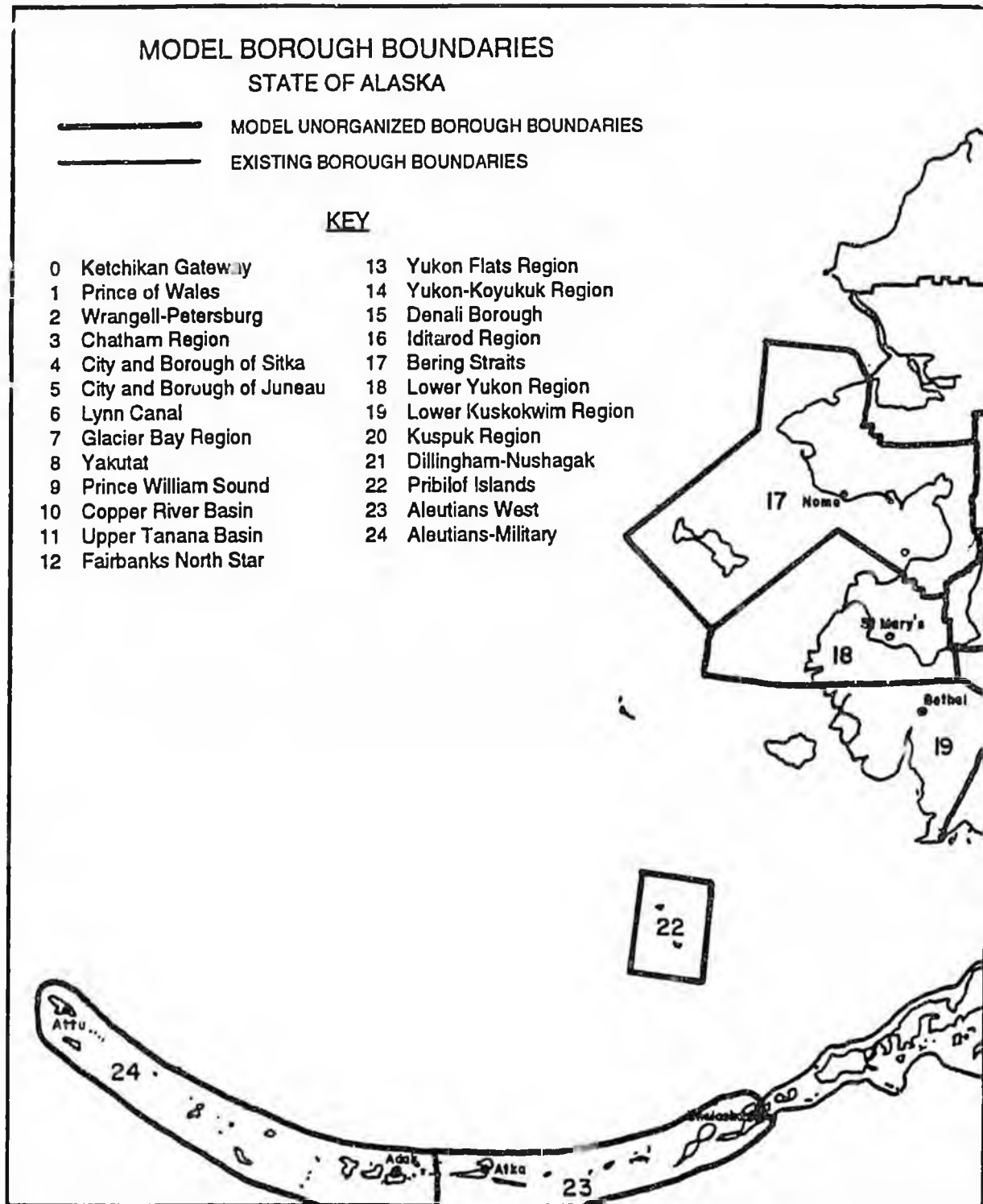
LOCAL BOUNDARY COMMISSION

MODEL BOROUGH BOUNDARIES STATE OF ALASKA

-  MODEL UNORGANIZED BOROUGH BOUNDARIES
-  EXISTING BOROUGH BOUNDARIES

KEY

- | | |
|------------------------------|---------------------------|
| 0 Ketchikan Gateway | 13 Yukon Flats Region |
| 1 Prince of Wales | 14 Yukon-Koyukuk Region |
| 2 Wrangell-Petersburg | 15 Denali Borough |
| 3 Chatham Region | 16 Iditarod Region |
| 4 City and Borough of Sitka | 17 Bering Straits |
| 5 City and Borough of Juneau | 18 Lower Yukon Region |
| 6 Lynn Canal | 19 Lower Kuskokwim Region |
| 7 Glacier Bay Region | 20 Kuspuk Region |
| 8 Yakutat | 21 Dillingham-Nushagak |
| 9 Prince William Sound | 22 Pribilof Islands |
| 10 Copper River Basin | 23 Aleutians West |
| 11 Upper Tanana Basin | 24 Aleutians-Military |
| 12 Fairbanks North Star | |



IV. SPECIAL ISSUES

Suggested Changes to Title 29

The LBC and its DCRA staff work with many of the state's municipalities each year. As a result, the Commission routinely confronts requirements and procedures which appear, in practice, to have a different result for municipalities or the state than the legislature probably intended when enacting the statute. The following are some suggested changes to Title 29 which the Commission believes would be in Alaskans' best interest.

- Allow direct incorporation of home rule cities and unified municipalities.
- Provide state oversight in the reclassification of 2nd class cities in the unorganized borough.
- Technical amendments to laws relating to municipal dissolution.

→ Amend AS 29.05.011 to Permit Incorporation of Home Rule Cities - Currently, residents of an unincorporated community may not directly incorporate as a home rule city. Instead, the community must first incorporate as a first or second class city, and then go through the process of adopting a charter. In 1985, the Legislature amended state law to allow home rule boroughs to form directly. The LBC believes it would be sensible and more cost-efficient to allow an unincorporated city with a least 400 permanent residents (the minimum number of residents required for first class city status) to incorporate directly as a home rule city in a one-step process.

→ Amend AS 29.04.040 and AS 29.10.010 to Require LBC Approval of Reclassification of a Second Class City in the Unorganized Borough - State law currently allows a second class city with a population of at least 400 to reclassify as a first class city without approval from the state. A second class city with 3,500+ residents and an area of at least 15 square miles may also become a home rule city without approval from the state. Such a reclassification in the unorganized borough is an event of major state interest because first class and home rule cities in the unorganized borough must operate municipal school districts. Although AS 14.17.139 requires Department of Education approval for the formation of any new district with less than 250 students, DOE has indicated that it and the Attorney General's office have doubts about the enforceability of that requirement. Without state approval being required for reclassification, the state faces the prospect of a sharp increase in the number of small city school districts. Presently, there are 24 second class cities in the unorganized borough which could, under the current rules, reclassify to first class status. There are also six unincorporated communities with enough population to incorporate and then reclassify to first class. The LBC recommends that these reclassifications be treated similarly to direct incorporation of first class cities, requiring a petition to the LBC.

→ **Amend AS 29.06.190 to Allow Direct Incorporation of Unified Municipality** - Residents of a number of regions in Alaska's unorganized borough have expressed an interest in being permitted to incorporate unified municipalities. Currently, only incorporated cities and an organized borough may unify. The Commission believes it would be beneficial to allow the direct incorporation of unified municipalities in regions with multiple communities, whether or not those communities or a borough were incorporated prior to unification.

→ **Amend AS 29.06.470 & AS 29.06.500 to Clarify Dissolution Standards** - In 1988, the Legislature amended sections .470 and .500 to authorize the dissolution of a municipality if more than 50% of the voters in the last general election petitioned for dissolution and if the LBC determined that dissolution was in the best interests of the state. However, when the dissolution laws are read as a whole, it appears that the LBC, regardless of the state's best interests, may have no discretion to reject a dissolution petition when the municipality is free of debt or has satisfied its creditors with a method of repayment, and either a) ceases to use each of its mandatory powers or b) no longer meets the standards for incorporation. The LBC believes it should have the discretion to consider the state's best interests in all dissolutions, and recommends that the language be clarified.

In addition, AS 29.06.470 refers to the last "general" election in the municipality when describing how to determine the required number of signatures on a dissolution petition filed under AS 29.06.470(a)(3). However, AS 29.06.460 uses last "regular" election as the basis for determining the required number of signatures on a dissolution petition filed under its provisions. Under state law, municipal elections are called "regular" elections, while "general" election usually refers to a state election. If the Legislature intended that the number of required signatures required under AS 29.06.470 be based upon the turnout in the last municipal election, then, to be clear, the term should be changed from "general" to "regular."

→ **Local Boundary Commission Compensation**

Volunteer service on the Local Boundary Commission has become increasingly complex and time-consuming. The LBC rarely meets less than 20 times a year. Members routinely undertake difficult travel to remote communities to conduct hearings and take public testimony. An example of the type of arduous schedule is demonstrated by Chairman Hargraves' itinerary during a recent week in November, 1992 (see table on following page). During the referenced week, he chaired five separate public hearings, heard the concerns of hundreds of Alaskans, endured difficult weather conditions in small aircraft and sacrificed a full week and much of the Thanksgiving holiday.

Issues addressed by the Commission, such as incorporations, annexations and model boundaries, often call forth a very emotional response from the public. Commissioners must have tact, patience and an ability to remain objective while being aggressively challenged.

Because of the often complex and sensitive nature of the issues brought before the Commission, LBC members must spend considerable time preparing for meetings and hearings. Since a number of LBC actions are challenged in court, work often does not end when a decision is made.

LOCAL BOUNDARY COMMISSION

LBC CHAIRMAN'S ITINERARY NOVEMBER 19-26, 1992

<u>DATE</u>	<u>DEPARTURE</u>	<u>DESTINATION</u>
11/19	Ketchikan	Anchorage
11/20	Anchorage	Palmer <i>Palmer Hearing at 7:00 pm</i>
11/21	Anchorage	Cordova <i>Cordova Hearing at 7:00 pm</i>
11/22	Cordova	Anchorage
11/23	Anchorage	King Salmon <i>Naknek Hearing at 7:00 pm</i>
11/24	King Salmon	Togiak <i>Togiak Hearing at Noon</i>
11/24	Togiak	Dillingham <i>Hearing at 7:00 pm</i>
11/25	Dillingham	Anchorage
11/26 (Thanksgiving Day)	Anchorage	Ketchikan

The expertise required in the LBC's work is illustrated by history. Before the Commission assumed responsibility, most local boundary actions, including incorporations, were given directly to the courts. The savings realized by processing such petitions through the Local Boundary Commission are enormous. The Commissioners have developed comprehensive regulations which they apply to their actions, and they must also ensure compliance with the broadly-interpreted provisions of the Federal Voting Rights Act.

With 165 municipalities in Alaska today, and more likely to form each year, the number of local boundary actions the LBC must handle is almost certain to grow. Despite the major commitment of time and energy demanded from the five members of the Commission, the Commissioners currently are volunteers, receiving money only for per diem allowances, with no additional compensation for their time and expertise.

Because the burden of the LBC's workload is greater than might reasonably be expected of volunteers, bills have been introduced in the last several sessions of the legislature to provide for compensation of \$150 per day to each Commission member. Without such compensation, the members believe it will become more and more difficult for the State to find qualified Alaskans who are willing to stay on the Commission long enough to give it the continuity and experience demanded by the complexity of the decisions.

The fiscal impact of the proposed compensation would be minimal. Based upon an estimate of 25 one-day meetings per year and compensation of \$150 per day per member, the total cost of compensation would be only \$18,750 per year. Accordingly, the Commission believes it is both reasonable and responsible to again raise the issue of compensation, and requests the legislature to consider this request.

Meetings On-Site vs. Teleconference

A rise in the number and complexity of petitions, coupled with the legitimate need to reduce the overall State operating budget, compels the Commission to make judgments regarding the most appropriate way to conduct its hearings and meetings. Complex and controversial municipal boundary proposals make it highly desirable that members of the Commission be present in the affected community or region whenever they conduct hearings. This allows the Commissioners to familiarize themselves first-hand with the unique circumstance surrounding each municipal boundary proposal and to deal directly with the petitioner and interested parties. In virtually every instance, petitioners and interested parties prefer to speak with the Commission in person.

However, during 1992, limited travel funds in many cases allowed only three of the five members of the commission (60%) to attend hearings. Even then, the Commission has been forced to combine several hearings on a single trip (see sample itinerary listed in the discussion of the issue of compensation for the Commission). Such demanding travel schedules are taxing on the members of the Commission.

Members of the Commission who do not travel to the hearing sites typically participate by teleconference or review the tape recordings of the hearings prior to the decisional session. In some instances, parties have raised strong objections when a member who did not attend a hearing in person (but did review the tape recordings), later voted on a petition.

Meetings of the Commission which involve neither hearings nor decisional sessions to act on petitions are almost invariably carried out by teleconference. Of the 32 meetings held by the Commission during 1992, approximately one-third were conducted entirely by teleconference.

It would require a doubling of the Commission's travel allocation to accommodate all requests for on site meetings and hearings. However, the Commission is all too aware that the financial resources of the State of Alaska are becoming more and more limited. Notwithstanding, the LBC wishes to inform the legislature of these matters and the likelihood that these issues will persist over the coming year.

Municipal Tax Limitation Issues

Concerns have been expressed over the lack of reasonable limits on the authority of municipalities to levy taxes. In one particular case, a city government with a population of 53 year-round residents levies a 3% sales tax on commercially-caught fish. On the basis of preliminary fisheries data, it appears that the city in question will collect some \$650,000 from its tax in 1992.

The estimated tax revenue in this case amounts to more than \$12,000 for each resident of the community. This compares to a per capita average of all taxes levied by the remaining 164 municipal governments in Alaska amounting to \$1,165.⁸ If municipal taxes on oil and gas properties were excluded, the average per capita municipal tax would be only \$704.

Presently, the law imposes no limitation on the rate at which a municipal government may levy a sales tax.⁹ Additionally, according to the State Attorney General's Office, the limitations imposed by AS 29.45.090(b) do not apply to the levy of sales taxes.¹⁰ Thus, there appear to be no legal limitations whatsoever on a municipality's authority to levy sales taxes (subject to voter ratification of rate increases). It was recently reported that officials of the city in question were even considering an increase in the tax beyond the current 3% levy.

The Local Boundary Commission is highly sensitive to the needs of municipal governments. Key among these is the ability to generate revenues necessary to provide local services. As State funding for local services continues to decline, this ability will become even more critical.

Nonetheless, the Commission believes that legitimate questions have been raised concerning the current lack of revenue limitations as noted. The Commission wishes to ensure that the legislature is aware of these concerns.

⁸ Tables published in Alaska Taxable, (DCRA, January 1992) on pages 14 - 17 indicate that during 1991, municipalities in Alaska collected \$79,457,675 in sales taxes; \$20,628,842 in "special taxes" such as alcohol, tobacco, bed and commercially caught fish; \$278,59,105 in non-oil & gas property taxes and \$248,364,653 oil and gas property taxes. These figures total \$626,910,275. According to the State Revenue Sharing and Municipal Assistance - FY 92 Final Report (DCRA March 1992) the populations of all municipal governments in Alaska total 538,079. Thus, the statewide average per capita municipal tax collected from all sources equals \$1,165.

⁹ Chapter 159, Session Laws of Alaska 1990, repealed a 6% limitation on sales taxes.

¹⁰ AS 29.45.090(b) states that "A municipality, or combination of municipalities occupying the same geographical area, in whole or in part, may not levy taxes (1) that will result in tax revenues from all sources exceeding \$1,500 a year for each person residing within the municipal boundaries; or (2) upon value that, when combined with the value of property otherwise taxable by the municipality, exceeds the product of 225 percent of the average per capita assessed full and true value of property in the state multiplied by the number of residents of the taxing municipality. The Attorney General's Office has verbally advised the Department of Community and Region Affairs that this law applies only to property taxes.

V. LITIGATION

During 1992, two parties filed court appeals over the incorporation of the City and Borough of Yakutat. Also during 1992, the Superior Court acted on three appeals that had been filed earlier regarding other actions of the Commission. In every case, the Superior Court rulings have been appealed to the State Supreme Court. The matters under litigation are summarized below.

Petitioners for Incorporation of City and Borough of Yakutat vs. Local Boundary Commission. Chugach Alaska Corporation vs. Local Boundary Commission. On June 4, 1992, the petitioners for the incorporation of the City and Borough of Yakutat filed an appeal with Superior Court over the amendment of their petition to exclude territory west of 141st meridian. The appeal centered on allegations that:

- 1) The Commission abused its discretion and acted beyond its statutory authority when it amended the western boundary of the petition to exclude the territory from the 141st meridian to Cape Suckling.
- 2) The Commission lacks authority to adopt regulations concerning standards for borough incorporation, and the Commission erred in relying upon such regulations in the amendment of the western boundary.
- 3) The amendment of the western boundary violated Article X, Section 3 of the Constitution of the State of Alaska which provides that each borough shall embrace an area and population with common interests to the maximum degree possible.
- 4) The amendment of the western boundary operated to deprive the petitioners of their rights to due process of law under Article X and Article XIV of the Amendments to the U.S. Constitution, and under Article I, Section 7 of the Constitution of the State of Alaska.

On August 10, 1992, Chugach Alaska Corporation filed an appeal with Superior Court over the Commission's decision to approve the petition, with or without the boundary amendment. This appeal alleged that:

- 1) The Commission erred in granting the petition because the proposal failed to meet population standards concerning size, stability, interrelationship and integration; and that it also failed to meet standards regarding the human and financial resources needed to operate a borough.
- 2) The Commission erred in applying regulations which were not in effect when the petition was filed.
- 3) The Commission committed procedural errors in the consideration of the petition.
- 4) Approval of the petition violates Article X, Section 1 of the Constitution of the State of Alaska which mandates a minimum number of local governmental units.

The two appeals were consolidated into one case on October 6, 1992. Parties are currently preparing briefs in the matter.

LOCAL BOUNDARY COMMISSION

City of Ekwok vs. Local Boundary Commission. (Nushagak Villages litigation) - As was reported last year, this case was filed on February 22, 1989, by eleven cities, village councils and native corporations from the Nushagak River area. The appeal sought to exclude territory from the northwest portion of the Lake and Peninsula Borough.

On November 18, 1992, the Superior Court ruled that (1) the notice procedures were deficient; (2) such deficiencies had a diminished citizen involvement; (3) there was no de facto incorporation; (4) the Commission's previous reconsideration of its own decision did not constitute a reconsideration on the merits; and (5) laches does not preclude appellants from seeking relief. Consequently, the court ordered the Commission to reconsider the northwest boundary of the Lake and Peninsula Borough.

The State Attorney General's Office and the Lake & Peninsula Borough have appealed the matter to the State Supreme Court. In the interim, parties in the case are working out an agreement with respect to compliance with the Superior Court order.

David Shaw. Valleys Borough Support Committee vs. Local Boundary Commission.

As was reported last year, on May 11, 1990, the Local Boundary Commission issued its written decision approving the petition to incorporate the Denali Borough. At the same time, the LBC rejected two competing petitions. One was an incorporation petition filed by supporters of a proposed Valleys Borough, and the other was an annexation petition filed by the Matanuska-Susitna Borough. All three petitions sought annexation or incorporation of a large overlapping area in and around Denali National Park and the nearby communities. The LBC considered the arguments and evidence presented through the petitions, DCRA's investigation and report, and seven public hearings. It then decided that the Denali Borough petition was the one best meeting the borough standards set out in the Constitution, statutes and regulations.

David Shaw, acting for the Valleys Borough Support Committee, appealed the LBC's decision. In addition to a question under the Voting Rights Act, the issues raised in the appeal include:

- 1) Does the LBC have the authority to reject a petition which meets minimal statutory criteria?
- 2) If presented with competing petitions which may all meet minimal criteria, does the LBC have the authority to choose and approve only one to be placed on the ballot?
- 3) Does the LBC have the authority to make approval of borough incorporation contingent upon passage of a ballot measure regarding a tax proposal?
- 4) Does the LBC have the authority to adopt regulations on the incorporation of cities and boroughs?

After briefing the issues, the appellants and the Attorney General's office presented their oral arguments in Fairbanks on November 26, 1991. At the hearing, the court ruled in the

Boundary Commission's favor on the question of connecting the incorporation election with a tax proposal, as well as on the Voting Rights question. On May 21, 1992, the Court ruled in favor of the Commission with respect to all of the remaining points.

The Valleys Borough Support Committee subsequently filed an appeal with the State Supreme Court. The appellant's appeal brief was filed on December 16, 1992.

Jack Keane and Concerned Citizens of Bristol Bay vs. Local Boundary Commission.

As reported last year, a group describing themselves as an unincorporated association of Pilot Point area residents, property owners and fishermen filed an appeal of the LBC's decision to accept the petition to incorporate Pilot Point as a second class city. Appellants claimed lack of proper notice and abuse of discretion by the LBC.

On September 3, 1992, the Superior Court ruled in favor of the Local Boundary Commission in the matter. The decision of the Superior Court was subsequently appealed to the Supreme Court. Parties are currently preparing briefs in the matter.

VI. FUTURE ISSUES

Over the past year, the LBC and its DCRA staff have received questions and requests for information on a number of municipal boundary proposals. These are discussed below.

Potential City Incorporations

Potential exists for several incorporation petitions in the near-term. Interest has been evident in several communities, as described in the following narrative.

A group of resident voters in the Kenai Peninsula Borough developed a petition to incorporate a second class **City of Nikiski**, encompassing territory on both the east and west shores of Cook Inlet. Backers of the proposal intended to file the petition in 1992. However, an informal vote taken by Tyonek residents at a village meeting on May 21 reflected overwhelming opposition to inclusion in the proposed City. The Nikiski organizing committee has been considering whether to continue to pursue incorporation efforts with modified boundaries.

Residents of **Nelson Lagoon**, a community in the Aleutians East Borough have recently worked on preparing a petition to incorporate as a second class city. However, no petition has been filed yet.

Anchor Point residents contemplating city status requested and received information regarding municipal incorporation procedures and standards.

A group of **Talkeetna** residents requested and received technical assistance in exploring second class city incorporation.

Residents of the Kenai Peninsula Borough's **Bear Creek** Fire Service Area located 6 miles from Seward advised that they were exploring incorporation of a city. Local interest in annexation was reportedly prompted by the City of Seward's study of the merits of annexing approximately one-half of the service area.

Residents of **Gustavus** have recently discussed the option of incorporation as a second class city.

Residents of **Hyder** are also reportedly exploring the merits of forming a city government.

Takotna residents met to explore city incorporation.

Residents of **Glacier View** within the Matanuska-Susitna Borough have expressed interest in incorporation.

Potential Borough Incorporations

A number of other cities and communities have expressed interest in borough incorporation, and particularly in the formation of single-community boroughs. Borough formation remained an issue of widespread interest in 1992. Several factors may promote continued impetus toward borough incorporation. These include declining state budgets, local concerns over allocation and development of resources and legal challenges to the state's method of funding schools.

For nearly two years, **Wrangell** residents have been considering studying the question of forming a single-city borough. Local officials are reportedly in the initial stages of drafting a petition for incorporation.

Growing interest has been evident in incorporation of an organized borough which would include the **Dillingham** Census Area.

The City of **Pelican** has expressed interest in borough formation in recent years.

Potential City Annexations

Several cities have expressed interest in annexing territory during the near future. These include the following:

The **Fairbanks** City Council has adopted an ordinance authorizing annexation of 454.74 acres, inhabited by approximately 20 residents. The estimated value of the property is approximately \$16,850,000. The petition for annexation was filed with the Department on January 12, 1993.

As reported earlier in this report, the City of **Seldovia** has committed to seeking the annexation of 35 lots using the legislative review method. All of the lots exist as enclaves within the boundaries of the City.

The Council of the City of **Seward** has authorized the filing of a petition for annexation of approximately 8.125 square miles. Staff provided officials of the City of Seward with information and materials needed to develop the petition.

The City of **Soldotna** is considering an ordinance (#559) for voluntary annexation of certain commercial properties.

Staff met with officials of the City of **Akutan** concerning their interest in annexing upwards of 70 square miles (Akutan Island and the remainder of Akutan Bay). City officials have indicated that they plan to submit a petition for the annexation of this territory in the near future.

The City of **King Cove** expressed plans to submit a proposal for legislative review annexation of some 13 square miles inhabited by about 20 individuals. The territory includes the airport, a potential hydroelectric project, and territory suitable for use by floating fish processors (Leonard Harbor). Staff provided information and materials necessary for the development of the petition.

LOCAL BOUNDARY COMMISSION

The City of **Newhalen** has requested information regarding standards and procedures for annexation. We have been advised that the Newhalen City Council is preparing a proposal to annex adjacent unincorporated **Iliamna**.

Akhiok city officials are reportedly considering annexation of territory during 1993.

Officials of the City of **Betties** have been exploring the prospect of annexing the immediately adjacent settlement of **Evansville**.

Staff provided information to the City of **Chignik** concerning standards and procedures for annexation.

Potential Consolidations

Consolidation is the creation of a new municipality from two or more existing municipalities. The original municipalities are automatically dissolved when the consolidation takes effect. Unlike unification, consolidation does not require the joining of a borough with all the cities within its boundaries, nor does it prevent the incorporation of new cities within the borough boundaries. In order for consolidation to be approved, the new municipality must meet the appropriate standards for incorporation.

During 1992, three groups were seriously studying the merits of consolidating a city and a borough. Local government officials in Ketchikan are studying the merits of consolidating the City of **Ketchikan** with the Ketchikan Gateway Borough. Individuals in the Fairbanks area are reportedly circulating a petition to consolidate the **Fairbanks North Star Borough** with the **City of Fairbanks**. **Kodiak** officials are also considering the merits of consolidating the **City of Kodiak** and the **Kodiak Island Borough**. The LBC's staff has provided information to all three groups.

Potential Dissolutions

Due to staffing reductions, DCRA lacked resources to investigate the status of potentially inactive municipalities in the **Yukon-Kuskokwim** area pursuant to AS 29.06.450(b). At present, these include the inactive second class cities of **Atmoutluak**, **Kasigluk**, **Newtok**, **Tununak** and **Tuluksak**. Staff will proceed with these investigations as resources permit. If the Commission concludes any of the municipalities meet the standards for dissolution, it would present its recommendations to the Legislature. The **Tuluksak** Tribal Council has reportedly decided to initiate dissolution proceedings for the non-functioning City of Tuluksak. DCRA regional office staff have committed to assist the Tuluksak Tribal Council in the preparation of the petition for dissolution.

Potential Detachments

A petition to detach **North Pole** and **Salcha**, from the **Fairbanks North Star Borough** has been filed and is under review.

Akutan residents and officials have expressed interest in detachment from the **Aleutians East Borough**.

Alexander Creek residents have been considering petitioning for detachment from the **Matanuska-Susitna Borough** and incorporation of a new borough.

Chiniak residents are contemplating detachment from the **Kodiak Island Borough** of Chiniak and several villages within the Borough. Chiniak is a community of 200 people, linked to Kodiak by some 40 miles of road.

LOCAL BOUNDARY COMMISSION

VII. RECOMMENDATIONS FOR ANNEXATION UNDER ARTICLE X, § 12, ALASKA CONSTITUTION

The Local Government Article of the Alaska Constitution provides that the Local Boundary Commission may present proposed boundary changes to the legislature during the first ten days of any regular legislative session. The change becomes effective 45 days after being presented to the legislature or at the end of the session, whichever comes first, unless a majority of the members of each house concurs in a resolution disapproving the change (Art. X, Sec. 12). The LBC presents the following five proposed changes for consideration by the legislature in 1993.

HOONAH

The City of Hoonah submitted a petition to annex about 18.5 square miles under the legislative review method.

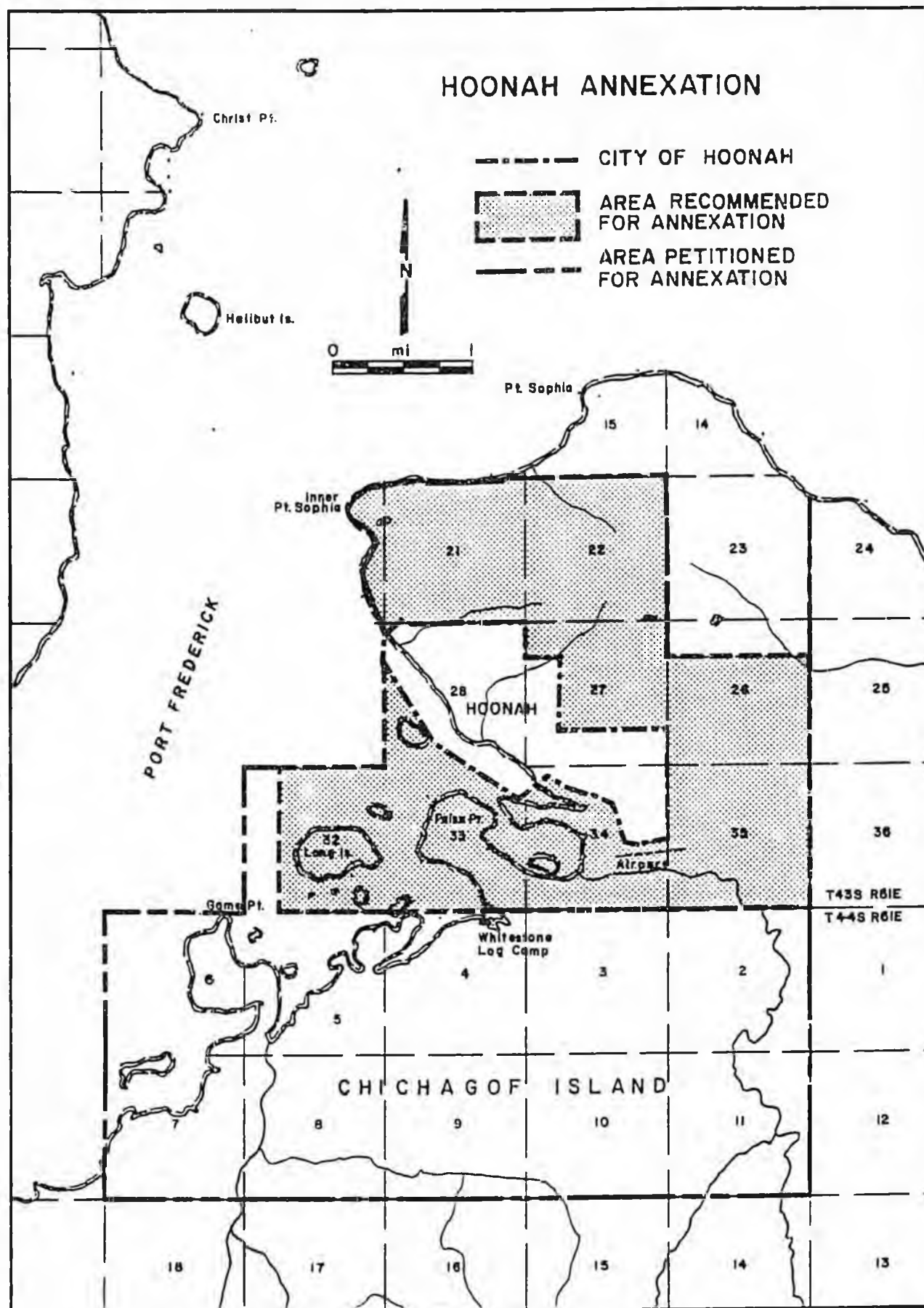
The Commission conducted a public hearing in Hoonah on October 10, 1992. On November 21, the Local Boundary Commission amended and approved the annexation petition of the City of Hoonah. The amendment reduced the territory to be annexed to approximately 7.25 square miles.

Details concerning the annexation proceedings and the conclusions of the Local Boundary Commission concerning the City of Hoonah's annexation petition are discussed in detail in the Commission's December 18, 1992, Statement of Decision. That document, comprising 18 legal-size pages, is available upon request from the Commission's staff in Anchorage. Staff may be reached at: Local Boundary Commission Staff, Department of Community and Regional Affairs, 333 W. Fourth Avenue, Suite 220, Anchorage, AK 99501-2341, telephone: 269-4500, fax: 269-4520.

Pursuant to Article X, Section 12 of the Alaska Constitution, the Commission hereby recommends annexation of the following area to the City of Hoonah:

Beginning at the protracted northeast corner of Section 22, T43S, R61E, Copper River Meridian (CRM);
thence, south to the protracted southeast corner of the northeast one-quarter of the northeast one-quarter of Section 27, T43S, R61E, CRM;
thence, east to the protracted northeast corner of the southeast one-quarter of the northeast one-quarter of Section 26, T43S, R61E, CRM;
thence, south to the protracted southeast corner of Section 35, T43S, R61E, CRM;
thence, west to a point within Port Frederick where the protracted southwest corner of the southeast one-quarter of the southwest one-quarter of Section 32, T43S, R61E, CRM; would be;
thence, north to a point within Port Frederick where the protracted northwest corner of the northeast one-quarter of the northwest one-quarter of Section 32, T43S, R61E, CRM; would be;
thence, east to a point within Port Frederick where the protracted northeast corner of Section 32, T43S, R61E, CRM would be;
thence, north to the intersection with the boundary of Alaska Tidelands Survey No. 29, approved by the Director of the Alaska Division of Lands on June 25, 1964 (hereinafter ATS No. 29);
thence, N 34° W to Corner No. 4 of ATS No. 29;
thence, N 51° E to the line of mean-low water;
thence, meandering along the line of mean-low water generally in a northerly and easterly direction to the intersection with extension of the protracted northern boundary of Section 21, T43S, R61E, CRM;
thence, east to the protracted northeast corner of Section 22, T43S, R61E, CRM; the point of beginning;
excluding therefrom, the territory currently within the boundaries of the City of Hoonah; containing 7.25 square miles, more or less, all in the Sitka Recording District, First Judicial District, State of Alaska.

A map of the area recommended for annexation is presented on the following page.



LOCAL BOUNDARY COMMISSION

HAINES #1

On March 4, 1992, the City of Haines submitted a petition to annex about 4.75 square miles of land under the legislative review method. Following its October 9, 1992, public hearing on the matter, the LBC approved the petition.

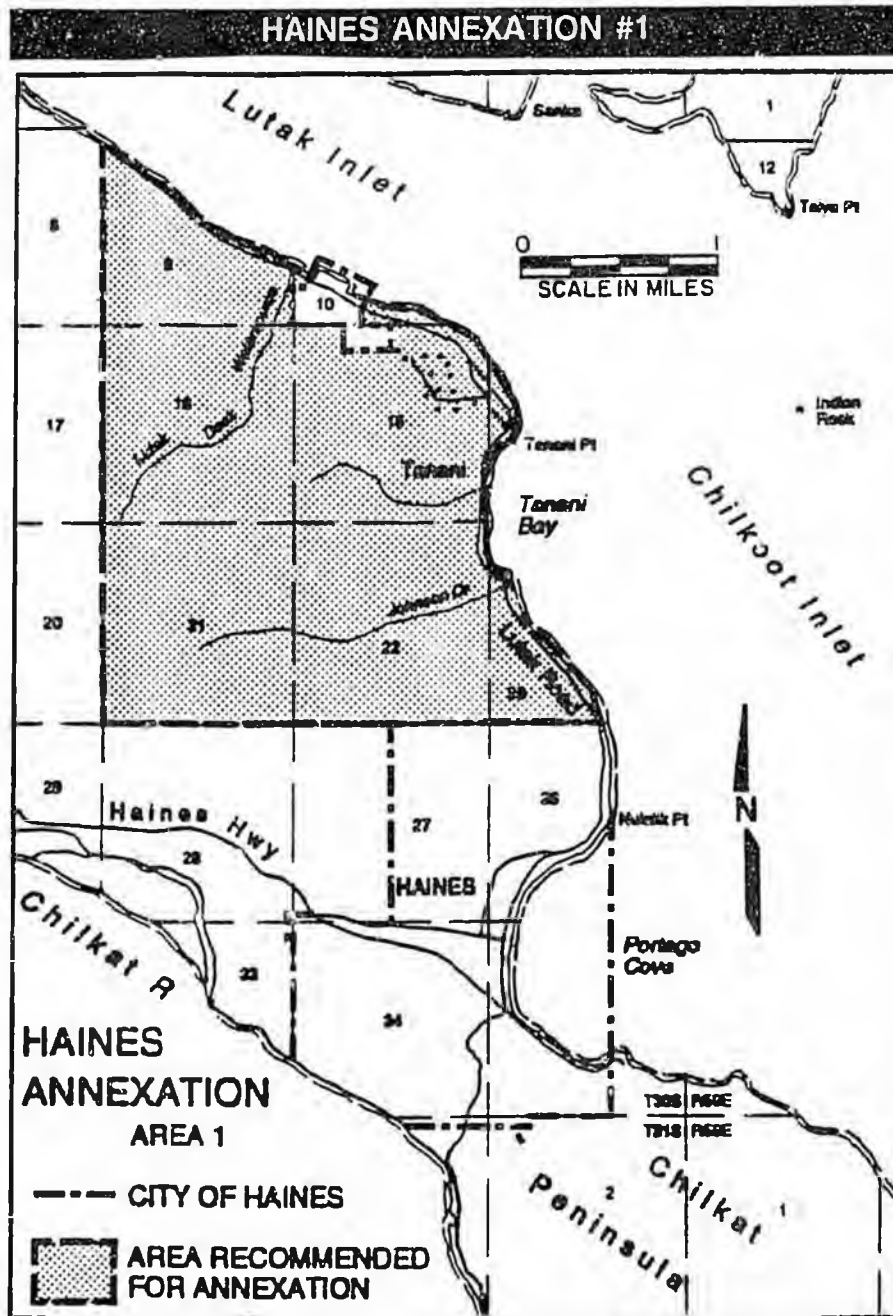
Details concerning the annexation proceedings and the conclusions of the Local Boundary Commission concerning the City of Haines' 4.75 square mile annexation petition are included in the Commission's November 5, 1992, Statement of Decision. That document, comprising 17-legal size pages, is available upon request from the Commission's staff in Anchorage. Staff may be reached at:

Local Boundary Commission Staff
Department of Community and Regional Affairs
333 W. Fourth Avenue, Suite 220
Anchorage, AK 99501-2341
Telephone: 269-4500, Fax: 269-4520

Pursuant to Article X, Section 12 of the Alaska Constitution, the Commission hereby recommends annexation of the following area to the City of Haines:

All of Sections 16, 21 and 22, and the on-shore portions of Sections 9, 23, 14, 10 and 15, Township 30 South, Range 59 East, Copper River Meridian, Alaska, which are not already within the existing boundaries of the City of Haines.

A map of the area recommended for annexation is presented on the following page.



LOCAL BOUNDARY COMMISSION

HAINES #2

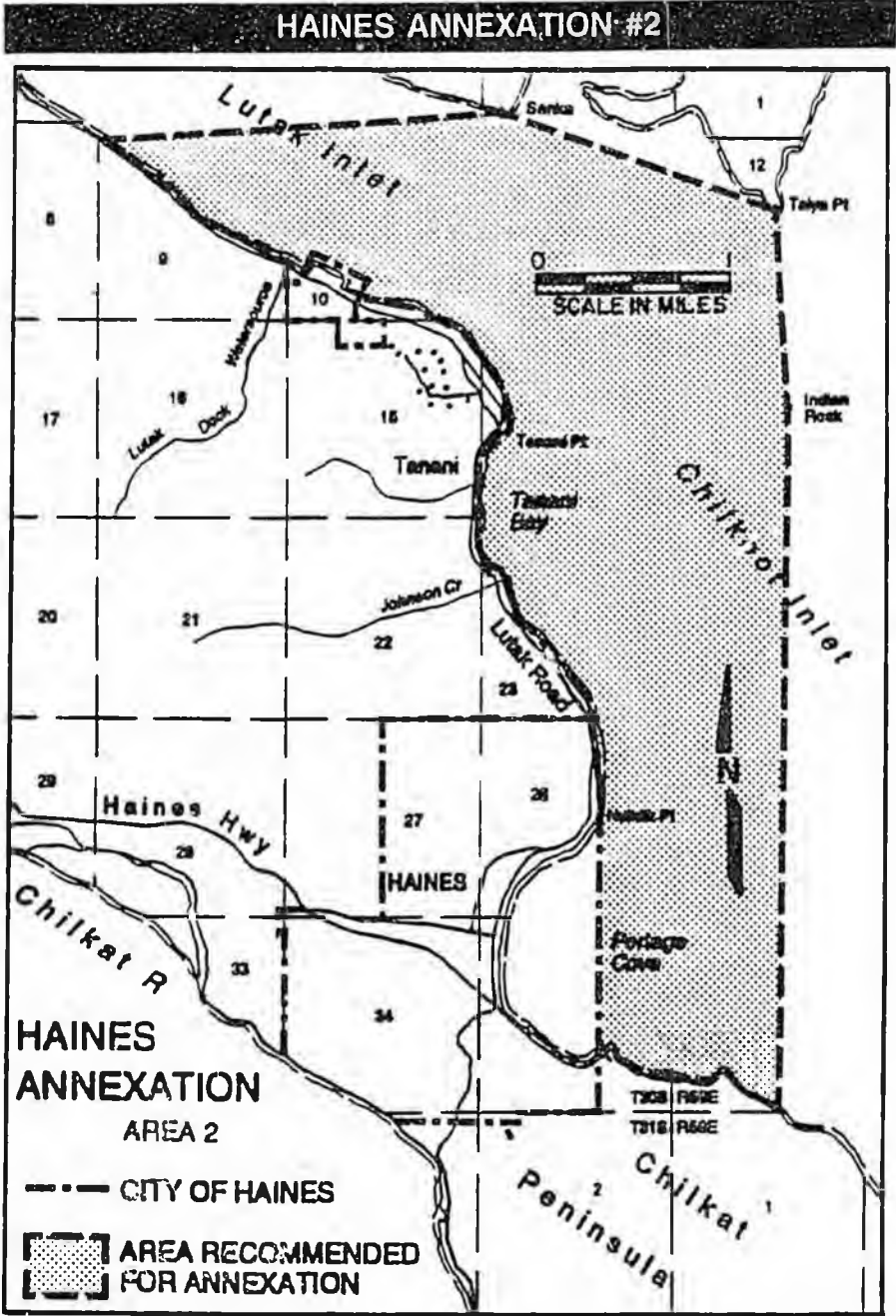
In addition to supporting the City's petition for the annexation of 4.75 square miles addressed on pages 42 and 43 of this report, DCRA recommended the annexation of an additional 7 square miles of adjacent tidelands. The Commission held a hearing on the matter on October 9. Following the hearing, the Commission provided an additional comment period, setting a November 27, 1992 deadline. On December 18, the Commission approved the annexation of the additional 7 square miles.

Details concerning the annexation proceedings and the conclusions of the Local Boundary Commission concerning this annexation proposal are included in the Commission's December 18, 1992, Statement of Decision. That document, comprising 10 legal-size pages, is available upon request from the Commission's staff in Anchorage. Staff may be reached at: Local Boundary Commission Staff, Department of Community and Regional Affairs, 333 W. Fourth Avenue, Suite 220, Anchorage, AK 99501-2341, telephone: 269-4500, fax: 269-4520.

Pursuant to Article X, Section 12 of the Alaska Constitution, the Commission hereby recommends annexation of the following territory to the City of Haines:

Beginning at the point where the western boundary of Section 9, T30S, R59E, Copper River Meridian (CRM) intersects with the line of mean high tide of Lutak Inlet;
thence, N 86° E (approximately), 11,000 feet more or less, across Lutak Inlet to U.S.G.S. triangulation station "Sanka";
thence, S 71° E (approximately), 8,000 feet more or less, to U.S.G.S. triangulation station "Taiya Pt";
thence, S 4° E (approximately) 5,250 feet more or less to the "Indian Rock Light";
thence, South (approximately) 18,750 feet, more or less, to the line of mean high tide of Chilkoot Inlet at the point of intersection of the southern boundary of Section 36, T30S, R59E, CRM, and the line of mean high tide;
thence, meandering northwesterly along the line of mean high tide of Chilkoot Inlet and Portage Cove to the intersection with the eastern boundary of the City of Haines (said point also being Haines Townsite Boundary Corner No. 6);
thence, north along the eastern boundary of the City of Haines to the northern boundary of the City of Haines, a point where the northern boundary of Section 26, T30S, R59E, CRM intersects with the line of mean high tide of Chilkoot Inlet (said point also being Haines Townsite Boundary Corner No. 4);
thence, meandering northwesterly along the line of mean high tide of Chilkoot Inlet and Lutak Inlet to the point of intersection with the eastern edge of the non-contiguous boundary of the City of Haines (encompassing the Lutak port facilities);
thence, northeasterly, northwesterly, and southwesterly along the non-contiguous boundaries of the City of Haines to the point where the western edge of the non-contiguous boundaries of the City of Haines intersects with the line of mean high tide of Lutak Inlet;
thence, meandering northwesterly along the line of mean high tide of Lutak Inlet to the point of intersection with the western boundary of Section 9, T30S, R59E, CRM, the point of beginning; containing 7 square miles, more or less, all in the Haines Recording District, First Judicial District, State of Alaska.

A map of the area recommended for annexation is presented on the following page.



LOCAL BOUNDARY COMMISSION

CORDOVA

The City of Cordova filed a petition for annexation of about 180 square miles inhabited by an estimated 469 residents. On November 21, 1992, the Commission conducted a public hearing in Cordova. On January 4, 1993, the Commission amended the petition to reduce the size of the area proposed for annexation to 68.23 square miles and approved the amended petition.¹¹

Details concerning the annexation proceedings and the conclusions of the Local Boundary Commission concerning the City of Cordova's annexation petition are discussed in more detail in the Commission's January 8, 1993, Statement of Decision. That document, comprising 22 legal-size pages, is available upon request from the Commission's staff in Anchorage. Staff may be reached at: Local Boundary Commission's Staff, Department of Community and Regional Affairs, 333 W. Fourth Avenue, Suite 220, Anchorage, AK 99501-2341, telephone: 269-4500, fax: 269-4520.

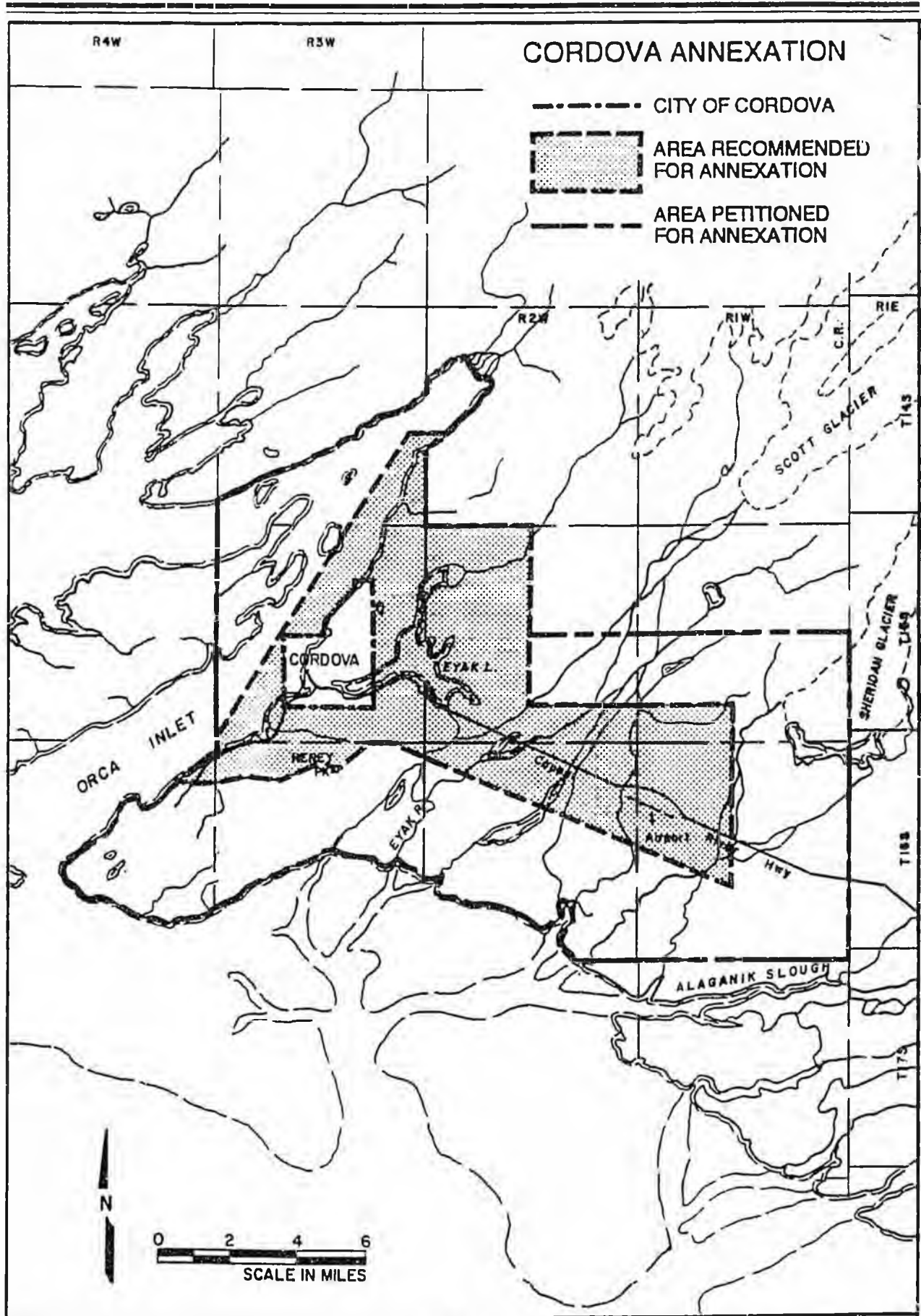
Pursuant to Article X, Section 12 of the Alaska Constitution, the Commission hereby recommends annexation of the following area to the City of Cordova:

Beginning at the northeast corner of protracted Section 4, T15S, R2W, Copper River Meridian (CRM);
thence, south to the southeast corner of protracted Section 28, T15S, R2W, CRM;
thence, east to the northeast corner of the northwest 1/4 of the northeast 1/4 of protracted Section 33, T15S, R1W, CRM;
thence, south to the southeast corner of the southwest 1/4 of the southeast 1/4 of protracted Section 21, T16S, R1W, CRM;
thence, northwesterly, in a straight line, to the northwest corner of protracted Section 1, T16S, R3W, CRM;
thence, west, along the north boundary of protracted Section 2, T16S, R3W, to a point on the divide along the Heney Range separating the drainage into Orca Inlet from the drainage into the Copper River Delta and the Gulf of Alaska;
thence, southwesterly along said divide to Heney Peak;
thence, westerly in a straight line to the beginning of Hartney Creek;
thence, westerly along the thread of Hartney Creek to the point where it enters Hartney Bay;
thence, northerly and westerly along the line of mean high tide of the north shore of Hartney Bay to Bluff Point;
thence, meandering along the line of mean high tide to the intersection with the east boundary of protracted Section 1, T16S, R4W, CRM;
thence, north to a point in Orca Inlet at the northwest corner of the southwest 1/4 of the southwest 1/4 of protracted Section 31, T15S, R3W, CRM;
thence, northeasterly, in a straight line, to a point in Orca Inlet at the northwest corner of the southeast 1/4 of protracted Section 24, T14S, R3W, CRM;
thence, east to the line of mean high tide on Nelson Bay;
thence, meandering southwesterly along the line of mean high tide of Nelson Bay to the intersection with the west boundary of protracted Section 19, T14S, R2W, CRM;
thence, south, to the southeast corner of protracted Section 36, T14S, R3W, CRM;
thence, east to the northeast corner of protracted Section 4, T15S, R2W, the point of beginning; containing 74.58 square miles, more or less, all in the Cordova Recording District, Third Judicial District, State of Alaska.

Excluding therefrom, the territory currently within the boundaries of the City of Cordova, comprising 6.35 square miles, more or less. The net territory approved for annexation comprises 68.23 square miles, more or less.

A map of the area recommended for annexation is presented on the following page.

¹¹ The decision of the Commission concerning this annexation became final under 19 AAC 10.570(g) on January 8, 1993. Under 19 AAC 10.580, interested parties have until January 28, 1993 to file a request for reconsideration of the decision.



LOCAL BOUNDARY COMMISSION

PALMER

On February 28, 1992, the City of Palmer filed a petition for annexation of approximately 7.5 acres using the legislative review method.

The Commission conducted a public hearing on November 20, 1992, in Palmer. On December 18, the Commission approved the petition. Details concerning the annexation proceedings and the conclusions of the Local Boundary Commission concerning the City of Palmer's annexation petition are discussed in detail in the Commission's December 30, 1992, Statement of Decision. That document, comprising 11 legal-size pages, is available upon request from the Commission's staff in Anchorage. Staff may be reached at:

Local Boundary Commission Staff
Department of Community and Regional Affairs
333 W. Fourth Avenue, Suite 220
Anchorage, AK 99501-2341
Telephone: 269-4500 Fax: 269-4520

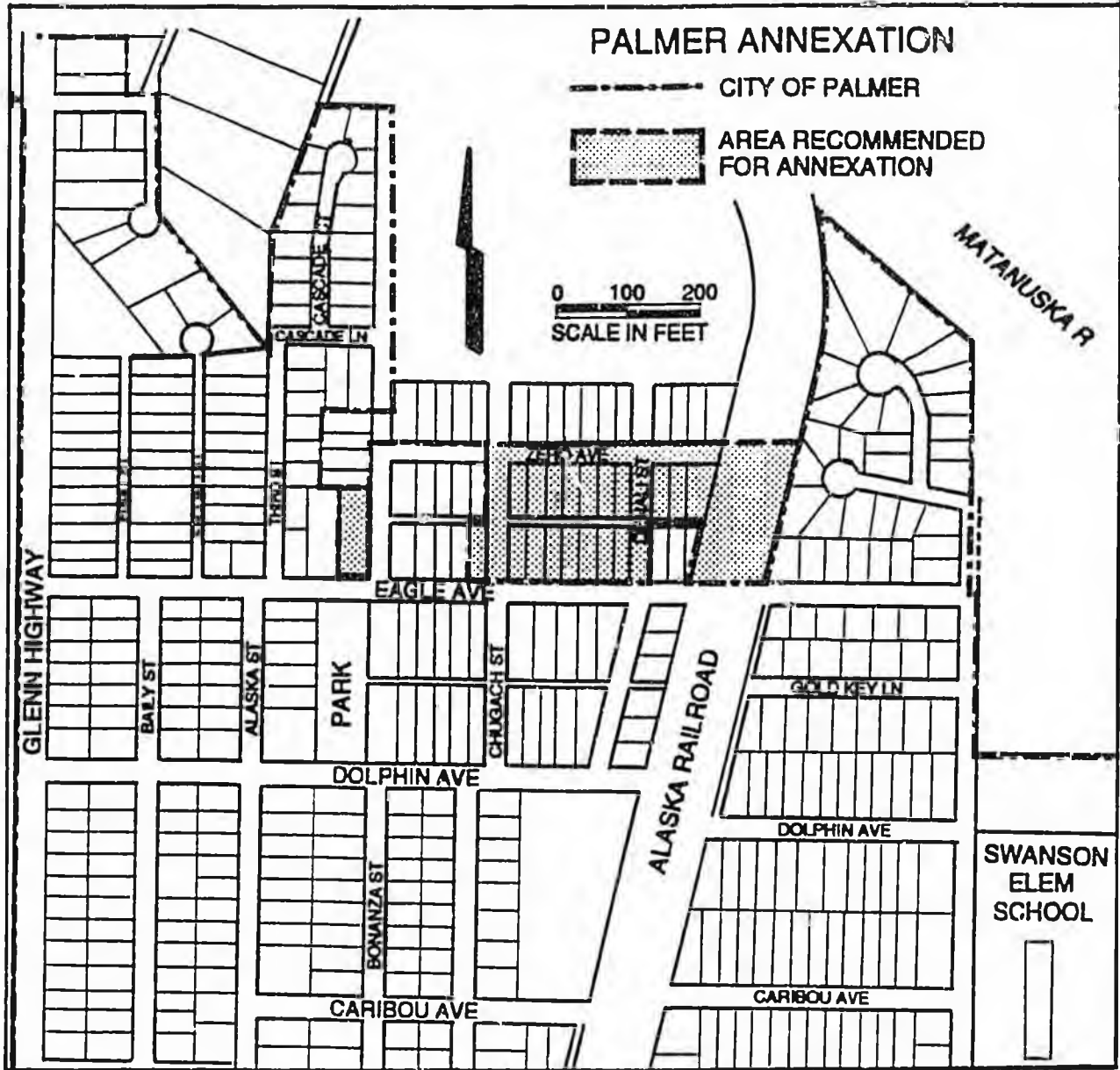
Pursuant to Article X, Section 12 of the Alaska Constitution, the Commission hereby recommends annexation of the following territory to the City of Palmer:

Within Section 28, Township 18N, Range 2E, Seward Meridian:

Pribyl, Grasse and Grasse Subdivision - Lot 22; Riverside Subdivision - Block 1, Lots 1 through 10 and Lots 20 through 27; and a portion of the right-of-way of the Alaska Railroad as shown on the City of Palmer's petition for annexation.

A map of the area recommended for annexation is presented on the following page.

PALMER ANNEXATION



APPENDIX A 1992 LOCAL BOUNDARY COMMISSION MEETINGS

JANUARY (3 Meetings)

January 17, 1992: Public hearing on City & Borough of Yakutat incorporation petition and model boundaries of Prince William Sound, Yakutat and Cross Sound/Icy Straits. Parties participated from **Whittier, Cordova, Valdez, Tatitlek, Elfin Cove** and **Yakutat**.

January 17, 1992: Public hearing in **Hoonah** on Yakutat and Cross Sound/Icy Straits Model Boundaries. Parties from **Gustavus, Juneau,** and **Pelican** participated via teleconference.

January 18, 1992: Public hearing in **Yakutat** on City and Borough of Yakutat incorporation petition and model boundaries for Prince William Sound, Yakutat and Cross Sound/Icy Straits areas.

FEBRUARY (2 Meetings)

February 5, 1992: Meeting in **Anchorage** with teleconference hookup to **Yakutat** to conduct decisional session on **Yakutat Borough** incorporation and dissolution of the City of Yakutat.

February 26, 1992: Continuation of February 5 meeting in **Anchorage** with teleconference hookup to **Yakutat** on Yakutat Borough incorporation and dissolution of the City of Yakutat.

Consideration of petition from the **City of Palmer** to annex **35 acres** of city-owned property.

MARCH (1 Meeting)

March 17, 1992: Continuation of February 5 and 26 meetings with teleconference hookup to **Yakutat**.

APRIL (1 Meeting)

April 10, 1992: teleconference from Anchorage, North Pole, Nome, Fairbanks and Ketchikan to adopt Statement of Decision approving dissolution of the City of Yakutat and the incorporation of the City and Borough of Yakutat.

MAY (5 Meetings)

May 8, 1992: Meeting in **Fairbanks** to review certain requests for reconsideration of decision approving City of Yakutat dissolution and Yakutat Borough incorporation. Determination of model unorganized borough boundaries of **Cross Sound/Icy Straits Model Boundaries** and **Prince William Sound** model boundaries.

May 8, 1992: Public hearing in **Delta Junction** on East Central model unorganized borough boundaries.

May 9, 1992: Public hearing in **Tok** on East Central model unorganized borough boundaries.

May 9, 1992: Public hearing in **Glennallen** on model unorganized borough boundaries of the Copper River Basin.

May 22, 1992: Teleconference originating from Anchorage to review additional requests for reconsideration of decision approving the dissolution of the City of Yakutat and incorporation of the City and Borough of Yakutat.

JUNE (1 Meeting)

June 6, 1992: Public hearing in **Tok** on Alaska Gateway Region Model Unorganized Borough Boundaries.

JULY (1 Meeting)

July 20, 1992: Teleconference originating from Anchorage for consideration/action on City of **Palmer's** petition to annex 2-acre William Fogg Property. Consideration/action on City of **Wasilla** petition to annex 252.34 acres of city-owned property (new airport site). Scheduling of hearings regarding annexation petitions from Cities of **Haines, Hoonah, Cordova, Palmer** and **Whittier**. Scheduling of **Greater Bristol Bay** model borough boundaries; **Calista** region model borough boundaries; **Aleutians/Pribilof** region model borough boundaries; **East Central** Alaska region model borough boundaries decision.

SEPTEMBER (1 Meeting)

September 25, 1992: Approval of **City of Seldovia's** annexation of approximately 110 acres of City-owned property (including the boat harbor). Training on due process, taking of evidence, evaluation of evidence on record, standards of review, Open Meetings Act and Executive Branch Ethics Act.

October (7 Meetings)

October 9 1992: Hearing and approval of **City of Haines'** petition for annexation of 4.75 square miles.

October 10, 1992: Public hearing in **Hoonah** concerning the City's proposed annexation of 18.5 square miles. The Commission deferred action on the matter principally because a City Council member testified that he and three newly elected Council members did not support the City's petition. In particular, the Council member opposed the annexation of the Mt. Bether Bible Center at **Game Creek** and the **Whitestone Logging Camp**.

October 20, 1992: Teleconference public hearing on Aleutian/Pribilof model unorganized borough boundaries. Representatives of **St. Paul, St. George** and the **Tanadusix Corporation** testified.

October 21, 1992: Teleconference hearing on Western Aleutian model unorganized borough boundaries was conducted with **Adak**.

LOCAL BOUNDARY COMMISSION

October 23, 1992: Aniak hearing on model unorganized borough boundaries for Kuspuk REAA.

October 23, 1992: St. Mary's hearing on model unorganized borough boundaries for Lower Yukon REAA model borough boundaries.

October 24, 1992: Bethel hearing on model unorganized borough boundaries for Lower Kuskokwim REAA.

NOVEMBER (6 Meetings)

November 5, 1992: Teleconference hearing regarding Western Aleutians model unorganized borough boundary. Akutan, Atka and Unalaska participated via teleconference. Adopted written decisional statement regarding Haines #1 legislative review annexation.

November 20, 1992: Public hearing regarding City of Palmer petition for annexation of 7.5 acres in Prybl, Grasse & Grasse subdivision.

November 21, 1992: Public hearing in Cordova regarding the Cordova annexation petition. Model boundaries were set for the following:

- Upper Tanana Basin (combining Delta Greely & Alaska Gateway REAAs);
- Copper River Basin (following boundaries of Copper River REAA);
- Lower Yukon (combining Lower Yukon and Kashunamiut REAAs);
- Lower Kuskokwim (combining Lower Kuskokwim and Yupiit REAAs);
- Kuspuk (following Kuspuk REAA);
- Pribilofs (following Pribilofs REAA);
- Aleutians West (from Aleutians East Borough to mid-point of Fenimore Pass;
- Aleutians - Military (from mid-point of Fenimore Pass to the western boundary of the State.

Approve annexation of 10 acres to the City of Seldovia.

November 23, 1992: Public hearing in Naknek regarding model boundaries of the Greater Bristol Bay region.

November 24, 1992: Public hearing in Togiak on model unorganized borough boundaries for Nushagak/Dillingham area.

November 24, 1992: Public hearing in Dillingham on model unorganized borough boundaries for Nushagak/Dillingham area, with teleconference participation from Chignik, Chignik Lake, Egegik, Kokhanok, Levelock, Newhalen, Nondalton, Pilot Point.

DECEMBER (4 Meetings)

December 4, 1992: Decisional meeting regarding City of **Palmer** petition for annexation of about 7.5 acres in Prybl, Grasse & Grasse subdivision. Decisional meeting regarding model unorganized borough boundaries for **Nushagak/Dillingham** region. Decisional meeting regarding annexation of 7 square miles of tidelands and submerged lands to the City of **Haines**.

December 18, 1992: Continuation of December 4 decisional meeting regarding **Palmer** Prybl, Grasse & Grasse annexation petition. Adopted written decisional statements concerning Hoonah legislative review annexation and Haines #2 legislative review annexation,

December 21, 1992: Completion of decisional meeting regarding **Palmer** Prybl, Grasse & Grasse annexation petition.

December 30, 1992: Meeting to approve statement of decision regarding **Palmer** 7.5 acre Prybl, Grasse & Grasse annexation.

APPENDIX B

SUMMARY OF STANDARDS & PROCEDURES

Portions of the Alaska Constitution, statutes and regulations governing LBC matters are listed below, followed by a summary of standards and procedures.

On June 29, 1991, the Local Boundary Commission adopted a revised set of regulations. The revised regulations were fully implemented on September 14, 1992, when the U.S. Department of Justice granted preclearance under the Federal Voting Rights Act. The new regulations were published in the October, 1992, supplement to the Alaska Administrative Code.

Alaska Constitution

- Article X, Section 3 - Boroughs
- Article X, Section 7 - Cities
- Article X, Section 12 - Boundaries
- Article X, Section 14 - Local Government Agency

Alaska Statutes

- AS 29.05.011-031 - Standards for incorporation of cities and boroughs
- AS 29.05.060-150 - Procedures for incorporation of cities and boroughs
- AS 29.06.040-060 - Annexation and detachment
- AS 29.06.090-170 - Merger and consolidation
- AS 29.06.450-530 - Dissolution
- AS 44.47.565-583 - General provisions concerning the LBC

LBC Regulations

- 19 AAC 10.010-040 - Standards for incorporation of cities
- 19 AAC 10.045-060 - Standards for incorporation of boroughs
- 19 AAC 10.090-150 - Standards for annexation to cities
- 19 AAC 10.160-210 - Standards for annexation to boroughs or unified municipalities
- 19 AAC 10.220-230 - Standards for merger of municipalities
- 19 AAC 10.240-250 - Standards for consolidation of municipalities
- 19 AAC 10.260 - Standards for detachment from cities
- 19 AAC 10.270 - Standards for detachment from boroughs or unified municipalities
- 19 AAC 10.280-300 - Standards for dissolution of cities
- 19 AAC 10.310-330 - Standards for dissolution of boroughs or unified municipalities
- 19 AAC 10.400-660 - Procedures for petitioning
- 19 AAC 10.900-990 - General Provisions

City Incorporation

The standards for incorporation of a city relate to the following factors:

1. The need for city government.
2. The community's human and economic resources.
3. The size and stability of the community's population.
4. Suitable boundaries.
5. Whether annexation to an existing city, or services performed by a borough, is more appropriate.

All of the standards must be met for the LBC to approve an incorporation petition.

The procedure for incorporation:

1. Residents submit a petition with supporting brief to the Department of Community and Regional Affairs.
2. DCRA reviews the form and content of the petition and determines whether it has enough valid signatures.
3. DCRA assists the petitioners in correcting any deficiencies in the petition and assists petitioners in mailing and publishing notice of the petition.
4. Interested parties are allowed at least seven weeks to review and submit comments on the incorporation proposal.
5. Petitioners are allowed at least two weeks to respond to comments from interested parties.
6. DCRA examines the petition and comments, and otherwise investigates the incorporation proposal. DCRA holds a public informational meeting in the area proposed for incorporation.
7. DCRA prepares a draft report and recommendation for the Commission on the proposed incorporation. The draft is circulated for public review for a minimum of four weeks. Following consideration of the comments, DCRA issues its final report.
8. The LBC holds at least one public hearing in the area. Within 90 days, the LBC makes a decision on the petition. The Commission may change the proposed municipal boundaries, and it may impose conditions on the incorporation. These conditions can include a requirement for voter approval of authority to levy municipal taxes (to ensure that the city will be financially viable).
9. If the LBC approves the incorporation petition, the Director of the Alaska Division of Elections orders a local election. This election includes selection of council members and possible council authorization to levy municipal taxes. DCRA prepares and submits the request to the U.S. Justice Department for federal Voting Rights Act preclearance.
10. After the election is held, the Division of Elections certifies the results. If a majority of those voting approve the incorporation (with any stated conditions) DCRA issues a certificate of incorporation for the city.

LOCAL BOUNDARY COMMISSION

Borough Incorporation

The standards for incorporation of a borough relate to:

1. Social, cultural, and economic integration;
2. Population size and stability;
3. Human and financial resources to maintain and operate the mandatory powers of the borough on an efficient and cost-effective level;
4. The proposed boundaries and their conformance with the natural geography of the area and whether they include all of the territory necessary to provide the full development of borough services on an efficient, cost-effective level.

As with city incorporations, all of the borough incorporation standards must be met for the LBC to approve a petition. Borough incorporation procedures are the same as those set out above for city incorporation.

Boundary Change Procedures

Procedures for annexation, detachment, merger, consolidation and dissolution are similar in many respects to the procedures previously outlined for incorporation. However, there are some important differences.

Under current law, an incorporation petition can only be initiated by the resident voters. However, annexation, detachment, merger, consolidation and dissolution may be initiated in a variety of ways. Petitioners for those procedures may include a political subdivision of the State of Alaska, the Alaska Legislature, the Commissioner of DCKA, LBC staff or designee, or voters.¹²

In the case of simple and non-controversial boundary proposals, certain of the procedural steps can be eliminated. The Commission's new regulations give it flexibility to ensure that the rights of interested parties are protected while at the same time, the process used to consider the proposal is reasonable, speedy and inexpensive.

The method of final approval in these instances will vary. Some will involve elections conducted by the State or local government. In other cases final approval may be sought from the Legislature. In simple and non-contested boundary proposals, no approval beyond that of the Commission may be necessary.

¹² A political subdivision is defined under 19 AAC 10.990(a)(11) to mean a borough, unified municipality, city, regional educational attendance area, or coastal resource service area organized and operated under state law.

Details about a particular process are available from:

Local Boundary Commission Staff
Department of Community & Regional Affairs
333 West 4th Avenue, Suite 220
Anchorage, Alaska 99501-2341
Telephone: 269-4500 Fax: 269-4520

Annexation Standards

Standards for annexation to cities relate to:

1. The need for city government;
2. Whether the territory is compatible in character with the annexing city;
3. Whether the post-annexation boundaries of the city include the human and financial resources necessary to provide city services on an efficient, cost-effective level;
4. Whether the post-annexation boundaries include a population sufficiently large and stable enough to support the extension of city government;
5. Whether the post annexation boundaries include all of the territory necessary to provide essential city services on an efficient, cost-effective level;
6. Whether the annexation serves the balanced best interests of the state, the territory to be annexed and all political subdivisions affected by the annexation.

In order for any annexation to occur, the first five standards must be satisfied. In order for an annexation to be approved using the legislative review method for final approval, the sixth standard must also be met. In considering whether this sixth standard is met, the Commission may consider factors including whether the (1) territory is an enclave within the existing boundaries of the city; (2) health, safety, or general welfare of city residents is endangered, (3) extension of city services or facilities into the territory is necessary to enable the city to provide adequate services to city residents, (4) residents and/or property owners receive benefits from the city without commensurate tax contributions, (5) annexation will enable the city to plan and control anticipated growth or development and (6) the territory is so sparsely inhabited or so extensively inhabited by persons who are not landowners, that a local election would not adequately represent the interests of the majority of the landowners.

Standards for annexation to boroughs relate to:

1. Whether the social, cultural and economic characteristics of the people are interrelated and integrated;
2. Whether the area has sufficient population size and stability;
3. Whether the post-annexation boundaries of the borough include the human and financial resources necessary to provide borough services on an efficient, cost-effective level;
4. Whether the post-annexation boundaries conform to natural geography and include all of the territory necessary to provide essential borough services on an efficient, cost-effective level;
5. Annexation by the legislative review process requires a determination of whether the annexation services the balanced best interests of the state, the territory to be annexed and all political subdivisions affected by the annexation.

LOCAL BOUNDARY COMMISSION

The factors to be considered with respect to the interests of parties are similar to those noted earlier for annexation to cities.

Detachment Standards

Standards for detachment from cities relate to:

1. The balanced best interests of the state, the territory to be detached and the political subdivisions affected by the detachment;
2. The health, safety and general welfare of the city and the territory after detachment;
3. The ability of the city or other governmental entity to efficiently and effectively provide reasonably necessary facilities and services to the territory after detachment;
4. The reasonably anticipated potential for, and impact of, future population growth or economic development that will require local government regulation in the area after detachment;
5. The historical pattern of providing to the territory municipal services that have been, or should be, supported by tax levies in the territory;
6. The historical pattern of cooperation and shared commitment between the people of the city and the people of the territory;
7. The extent to which detachment might enhance or diminish the ability of the remaining city to meet the standards for incorporation;
8. The extent to which a transition plan of a previous annexation has been implemented and is effective;
9. The effect on the long-term stability of the finances of the remaining city, other municipalities, and the state;
10. Whether the proposed detachment will promote local self-government with a minimum number of governmental units;
11. Whether the territory's requirements for local government services will be adequately met following detachment.

Standards for detachment from boroughs and unified municipalities relate to:

1. The balanced best interests of the state, the territory to be detached and the political subdivisions affected by the detachment;
2. The health, safety and general welfare of the borough or unified municipality and the territory after detachment;
3. The ability of the borough or unified municipality or other governmental entity to efficiently and effectively provide reasonably necessary facilities and services to the territory after detachment;
4. The reasonably anticipated potential for, and impact of, future population growth or economic development that will require local government regulation in the territory after detachment;
5. The historical pattern of providing to the territory municipal services that have been or should be, supported by tax levies in the territory;

6. The historical pattern of cooperation and shared commitment between the people of the borough or unified municipality and the people of the territory;
7. The extent to which detachment might enhance or diminish the ability of the remaining borough or unified municipality to meet the standards for incorporation;
8. The extent to which a transition plan of a previous annexation has been implemented and is effective;
9. The effect on the long-term stability of the finances of the remaining borough or unified municipality, other municipalities, and the state;
10. Whether the proposed detachment will promote local self-government with a minimum number of governmental units;
11. Whether the territory's requirements for local government services will be adequately met following detachment.

Consolidation and/or Merger Standards

Consolidation of municipal governments is the creation of a new municipality from the union of two or more existing municipalities. Merger of municipalities is the absorption of one or more existing municipality by another existing municipality. The primary standard for either action is whether the successor municipality meets the applicable standards for incorporation for its type of municipality. Merger and consolidation are initiated with a petition to the LBC .

Municipal Dissolution Standards

The standards for dissolution of a municipality relate to the following factors:

1. Whether the municipality is free of debt, or has satisfied each of its creditors;
2. Whether the municipality has ceased to use each of its mandatory powers;
3. Whether dissolution is in the best interests of the state;
4. Whether the municipality continues to meet the standards for incorporation;
5. Whether the municipality still meets the standards for incorporation;
6. Whether the municipality has ceased to exercise its mandatory powers.

City of Palmer

TO: MEMBERS OF THE LOCAL BOUNDARY COMMISSION

SUPPORTING BRIEF

ANNEXATION OF AN AREA TO THE CITY OF PALMER BY LEGISLATIVE REVIEW - APPROXIMATELY 7.5 ACRES

This brief, to the best of our ability, satisfies existing rules and regulations of 19 AAC 10.070-10.080 and the proposed regulations under 19 AAC 10.090-10.140, whereby the City of Palmer must exhibit reasonable need for annexing certain areas within Section 28, Township 18N, R2E of the Seward Meridian more specifically described as: Lot 22, Pribyl, Grasse and Grasse Subdivision; Lots 1 through 10 and Lots 20 through 27, Block 1 of Riverside Subdivision as well as a portion of the Alaska Railroad right-of-way.

The proposed area to be annexed abuts the current City of Palmer corporate limits on three sides. Further, this property fronts a major arterial street as designated in the 1985 City of Palmer Traffic Study prepared by Datum Engineering. In addition, sanitary sewer, storm sewer and water mains are adjacent to this property with more than ample capacity.

Presently, this property is located in the Matanuska-Susitna Borough which does not provide for areawide zoning, police protection, building code enforcement or health and sanitation enforcement. Since the Matanuska-Susitna Borough does not provide areawide zoning, the proposed area to be annexed is unzoned.

In 1990, the City received a petition signed by 61 area residents urging the City to annex this area because of the continued problems of loose dogs going onto adjoining property and getting into garbage cans, dogs harassing school children waiting for the school bus at a designated pick-up site, Matanuska winds depositing debris from this area into their yards, decreased property values by the continued accumulation of inoperable cars and trucks, and accumulation of used building materials, to name a few of the legitimate concerns. At that time, the City chose not to annex this property subject to the Legislative Review process with anticipation that the property owners would police themselves to alleviate the concerns of the City residents. A copy of the 1990 petition is attached and made a part of this exhibit.

However, since the property owners chose not to mitigate the problems and concerns, in 1991 the City chose to seek a

Legislative Review annexation of the aforementioned parcels.

The large number of unleashed and unrestrained dogs which the Matanuska-Susitna Borough allowed to be on the premises has taxed the City's police department for providing animal control to the City residents in this area. However, the number of animals has not decreased except when the Matanuska-Susitna Borough revoked the owner's kennel license which has subsequently been reissued.

On the aforementioned parcels, there are four houses and one garage, of which one is inhabited by the owner of record of the largest number of lots described above while three remaining houses are inhabited from time to time by various people. The City was informed by the resident that there is no water or sewer services to the property at this time. The City has no knowledge as to how the resident and other buildings on the aforementioned parcels of land dispose of the sewage.

The City of Palmer's sewer and water system have been designed and constructed to accommodate a population equivalent of 10,000 people. Presently the City's population is 3,008. Further, with the annexation of this property, the storm sewer which abuts this property is designed to carry any additional storm water runoff created.

The annexation of this property will not increase the Palmer police department's workload but in all probability will lessen particularly the dog call responses. At the same time, no additional burden will be placed on the public works department since it presently maintains East Eagle Street due to it being a direct access route to the Swanson and Sherrod Elementary Schools. The City of Palmer will not be increasing its labor force as a result of this annexation. Further, this property is presently receiving road maintenance benefit without paying for the service.

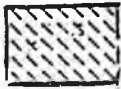
The continued health and safety concerns of the City of Palmer's residents can be mitigated upon annexation through the enforcement of city zoning ordinances and health ordinances which will require the removal of inoperable vehicles, mandatory garbage collection for all city residents, compliance with the Uniform Building Code, and compliance with the city's animal control ordinance, which limits the number of dogs and cats allowed in a single family resident as well as prohibits the harboring of livestock within the corporate limits. Further, the City of Palmer's nuisance ordinance requires that the property owner maintain his/her property free of debris as well as prohibits the animals from becoming an annoyance to the neighbors.

It is the City of Palmer's policy not to provide services to any area outside the corporate limits unless they are annexed. There has not been an exception to this policy since 1980, when the City undertook a multi-million dollar sewer and water system expansion.

The City of Palmer as late as February 20, 1992, has attempted to conduct an informal door-to-door census of the residents residing in the buildings, however we have received no responses. During the door-to-door survey attempt, the City asked the one resident if water and sewer service was provided to all the buildings in the area. The City of Palmer did contact the State Elections Office to determine there is one registered voter in the proposed area to be annexed.

PROPOSED PALMER ANNEXATION

AREA PROPOSED FOR ANNEXATION



SCALE
 APPROX. 200 FEET

These standards for annexation of territory to a city are briefly summarized as follows:

1. Willingness and Ability to Serve the Area (19 AAC 10.080)

It must be shown to the satisfaction of the Local Boundary Commission that the city is both willing and able to extend "full municipal services" to the area proposed for annexation. These services are defined as "all of the services that a municipality is providing to its residents with revenues raised from the municipality's general mill levy or sales or use taxes" (19 AAC 10.840(9)). It does not include services funded by user fees (e.g., utilities). Nor does it require the city to build roads, sidewalks, water and sewer utility extensions, or other capital projects to the area proposed for annexation.

If the area will not receive "full municipal services", the Commission may still approve the annexation if the city is willing to establish differential tax zones to compensate for the lower level of services.

In addition to standard

number 1, a proposal to annex territory contiguous to the existing boundaries of a city must meet at least one of nine other standards. These nine standards are summarized below.

A. Provision of Uncompensated Services 19 AAC 10.070(a)(8) This standard is met if residents or property owners in the area proposed for annexation receive or may be expected to receive city services without paying property taxes to the city. This standard may be satisfied even if the services are provided inside the current boundaries of the city.

Need for Services & Ability to Serve 19 AAC 10.070(a)(4) If the area proposed for annexation needs municipal services and the city can provide those services more efficiently than another municipality, this criteria is satisfied.

C. Urban Character 19 AAC 10.070(a)(3) and 19 AAC 10.070(d) This standard is met if the area proposed for annexation is similar in character to the area already within the city limits. In evaluating this standard, the Com-

mission may consider whether:

- the property in the area proposed for annexation is platted;
- the property is used for residential or commercial purposes;
- the property is suitable for urban purposes;
- the population density of the area proposed for annexation is similar to the area within the existing city limits;
- the population of the area proposed for annexation stems from growth beyond the boundaries of the city.

D. Growth and Development 19 AAC 10.070(a)(5)

If the area proposed for annexation is likely to grow and develop, this standard may be met. However, the Commission must also conclude that the city will plan for and control that development.

E. Health, Welfare and Safety (19 AAC

10.070(a)(6) This standard may be met if the residents of the city are endangered by conditions existing or developing in the area proposed for annexation. To satisfy this standard, the Commission must also determine that annexation will enable the

city to relieve those conditions.

F. Need for Service Extension (19 AAC 10.070(a)(7))

If the city needs to include any of the territory proposed for annexation in order to extend services to an area currently within its boundaries, this standard is satisfied. Examples of such instances might include the need to develop a new site for a sanitary landfill, water source or sewage disposal facility, or the need to regulate the community's watershed.

G. City-owned Property (19 AAC 10.070(a)(2))

If the city owns property within the territory proposed for annexation, this standard is met.

H. Enclave within City Limits (19 AAC 10.070(a)(1))

If the territory proposed for annexation is surrounded by property already within the corporate limits of the city, this standard is satisfied.

I. Other Valid Public Purposes (19 AAC 10.070(a)(9))

This standard is satisfied if the Commission determines that the annexation proposal serves some legitimate public purpose other than those covered by the eight previously noted standards. An example might be the inclusion of adjacent industrial or commercial developments which are a natural part of the community in order to enhance the revenues of

the city. Another example might be extending voting rights to residents who are served by a municipal government, but have no right to vote in municipal elections.

3. Interlying Property (19 AAC 10.070(c))

The law provides that territory which does not meet any of the nine general standards discussed in the preceding section, may still be annexed if it lies between the current city boundaries and other territory which does meet one or more of those standards. This reflects a strong preference for avoiding "holes" in the jurisdiction of a municipal government.

CHAPTER 5 - SUMMARY AND RECOMMENDATION

SUMMARY

The proposal for annexation of 7.5 acres to the City of Palmer is justifiable. Based upon its analysis, the Department has concluded that:

☒ The City of Palmer is willing and able to serve the territory proposed for annexation.

☒ Road maintenance services are currently provided by the City of Palmer. There is a need for municipal planning services within and extending beyond the territory proposed for annexation. There is also a need for enhanced public safety, specifically animal control, in the territory proposed for annexation. The City of Palmer can provide the needed services most efficiently.

☒ The area proposed for annexation is urban in character as defined in the Local Boundary Commission's regulations.

☒ The City of Palmer has the willingness and ability to extend "full municipal services" to the area proposed for annexation.

☒ Annexation of the subject area would facilitate improvements to the area and would likely lead to an increase in property values for neighboring areas within the existing Palmer municipal boundaries.

Voter approval of the boundary change proposal is impractical in this instance, due to the absence of sufficient registered voters in the area proposed for annexation, the Department has concluded that the balanced interests

of the parties involved in this annexation support the use of the legislative review process. This conclusion was reached on the basis of guidelines recently adopted by the Commission.

RECOMMENDATION

On the basis of the analysis presented in this report, the Department recommends that the Commission approve the annexation of the 7.5 acres requested by the City of Palmer.

LOCAL BOUNDARY COMMISSION REGULATIONS

Article 3. Standards for Annexation to Cities

Section
65. Applicability
70. Annexable territory

Section
80. Application of standards
90. Annexation of incorporated territory

19 AAC 10.065. APPLICABILITY. The provisions of 19 AAC 10.070 — 19 AAC 10.090 apply to a proposal for annexation by local action (19 AAC 10.630 — 19 AAC 10.730), by legislative review (19 AAC 10.450 — 19 AAC 10.620) or by the step process (19 AAC 10.735 — 19 AAC 10.790). (E/f. 2/21/82, Register 81)

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

19 AAC 10.070. ANNEXABLE TERRITORY. (a) Territory which is contiguous to a city may be annexed to that city if one or more of the following standards are met:

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

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

(3) the territory is urban in character;

(4) the territory is in need of municipal services which the city can provide more efficiently than another municipality;

(5) there is a reasonable likelihood that future growth and development will occur within the territory and that annexation of the territory will enable the city to plan for and control that development;

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

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

(8) residents or property owners within the territory receive or may be reasonably expected to receive, directly or indirectly, the benefit of city government without commensurate property tax contributions, whether city services are rendered or received inside or outside the territory;

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

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

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

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

LOCAL BOUNDARY COMMISSION REGULATIONS
(continued)

(c) Territory which does not meet the standards of (a) of this section may be annexed to a city if the territory lies between the city boundary and other noncontiguous territory which meets the requirements of (a) of this section.

(d) In determining whether territory is urban in character for the purposes of (a)(3) of this section, the commission will, in its discretion and without limitation, consider whether the property is platted or held for sale for residential or commercial purposes, whether the population density of the territory approximates that of the annexing city, whether the population of the territory stems primarily from actual growth of the city beyond its legal boundaries, and whether the property is valuable primarily by reason of its suitability for prospective urban purposes.

(e) In determining whether the standard established in (a)(8) of this section is met, the commission will consider alternative methods available to the city for offsetting the cost of providing services to individuals or property beyond its property taxation powers. (Eff. 2/21/82, Register 81)

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

Editor's notes. — 19 AAC 10.070 is based on a former version of 19 AAC 05.010.

19 AAC 10.080. APPLICATION OF STANDARDS. (a) The commission will not approve an annexation unless the annexing city demonstrates to the satisfaction of the commission that it is capable of extending, and is willing to extend, services to the annexed area as follows:

(1) full municipal services shall be extended to the annexed area immediately unless

(A) the annexation is pursuant to 19 AAC 10.735 — 19 AAC 10.790; or

(B) the immediate extension of full municipal services to the annexed area is impossible because of a lack of necessary facilities, in which case the annexing city shall satisfy the commission that it will provide the services within a reasonable time;

(2) if the annexation is under 19 AAC 10.735 — 19 AAC 10.790, the commission must be satisfied that the city's plan for gradual extension of services reasonably compares with a plan for gradual extension of taxation and provides for extension of full municipal services to the annexed area within the time period established under 19 AAC 10.740.

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

LOCAL BOUNDARY COMMISSION REGULATIONS
(continued)

(c) Notwithstanding the provisions of (a) of this section, the commission will, in its discretion, approve an annexation by a city which has authority to establish and operate differential taxation zones if the commission is satisfied that the city is willing and able to use that authority to

(1) provide the territory with such services as may be desired by residents of the territory; and

(2) insure that the annexed area is not subjected to unfair taxation for services not available in the annexed area. (Eff. 2/21/82, Register 81)

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

Editor's notes. — 19 AAC 10.080 is based on a former version of 19 AAC 05.020.

19 AAC 10.090. ANNEXATION OF INCORPORATED TERRITORY. (a) For the annexation by a city of territory of another municipality, the commission will determine the method by which assets and liabilities are to be distributed between the city and the municipality formerly providing services. In determining the distribution of liabilities and assets, the commission will, in its discretion, approve an equitable agreement between the municipalities affected but will independently review the proposed agreement.

(b) Territory which is part of a city may not be annexed to another city unless the commission determines the annexation to be in the best interests of the annexing city, the city from which the annexed territory is taken, and the annexed area.

(c) Separate or additional proceedings are not required for detachment from a city or borough of territory which becomes annexed to another city; the detachment is effected by and at the same time as the annexation. (Eff. 2/21/82, Register 81)

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

Editor's notes. — 19 AAC 10.090 is based on former versions of 19 AAC 05.030 and 19 AAC 15.040.

8-LS0567A
Cook
2/8/93

SENATE JOINT RESOLUTION NO. 20

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Introduced:

Referred:

A RESOLUTION

1 **Disapproving the Local Boundary Commission recommendation regarding the**
2 **annexation of territory to the City of Palmer.**

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

4 **WHEREAS**, under art. X, sec. 12, Constitution of the State of Alaska, the Local
5 Boundary Commission has presented to the legislature its recommendation regarding the
6 annexation of territory to the City of Palmer; and

7 **WHEREAS** the recommendation was received on January 20, 1993; and

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

12 **BE IT RESOLVED** by the Alaska State Legislature that the recommendation of the
13 Local Boundary Commission received January 20, 1993, regarding the annexation of territory
14 to the City of Palmer, is disapproved.

January 25, 1991

Dear Alaska State Legislator,

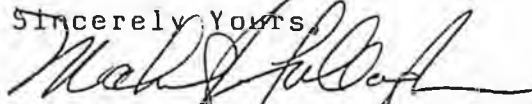
I am writing this letter in support of the proposed annexation of 7.5 acres in No. Palmer, Ak. I will spare you all the details of this issue and why I am in favor because there is just too much material to cover. However, I would like to point out that I have been involved in this issue as an interested party. I live directly across the street from this property and have first hand knowledge of the situation that exists.

Since 1990, I have had to attend numerous Palmer City Council meetings and have given sworn testimony at the Local Boundary Commission public hearing. All parties involved have been afforded due process with time extensions on deadlines, appeals, etc. After this long drawn out process, the Local Boundary Commission voted to approve the annexation and subsequently voted to deny a reconsideration of the issue.

As a Legislator, you may be inundated with letters and/or phone calls from people acting on behalf of Mr. Ed Bailey, the only one of several land owners in the affected area to be so opposed to the issue. Several of his acquaintances have gone so far as to form the "Alaska Citizens Awareness Committee", initially founded for the sole purpose of opposing this annexation. Due to the fact that Mr. Bailey has persuaded his friends, relatives, and acquaintances to support him in his opposition, you may well receive more letters against the annexation than in favor. This has been the pattern in the past, but obviously the City Council Members, L.B.C. staff and the L.B.C. Commissioners were able to see this for what it was.

In closing, I urge you to support the L.B.C. decision and support this annexation for the good of the residents of North Palmer.

Sincerely Yours,


Michael J. Gallagher Family
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Palmer, Ak. 99645
746-0527