

**SB**

**18**

<TARGET><BILL>SB 18</BILL><SUBJECT>SB  
18</SUBJECT><COMM>SCRA30</COMM></TARGET>



# Senator Lyman F. Hoffman

Co-Chair Senate Finance

Alaska State Legislature \* State Capital \* Juneau, AK 99801-1182  
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[Sen.Lyman.Hoffman@akleg.gov](mailto:Sen.Lyman.Hoffman@akleg.gov)

### District S

Adak  
Akiachak  
Akiak  
Akutan  
Aleknagik  
Aniak  
Anvik  
Atka  
Atmauthluak  
Attu Station  
Bethel  
Chefornak  
Chignik  
Chignik Lagoon  
Chignik Lake  
Chuathbaluk  
Clark's Point  
Cold Bay  
Crooked Creek  
Dillingham  
Dutch Harbor  
Eek  
Egegik  
Ekwok  
False Pass  
Flat  
Goodnews Bay  
Grayling  
Holy Cross  
Igiugig  
Iliamna  
Ivanof Bay  
Kasigluk  
King Cove  
King Salmon  
Kipnuk  
Kokhanok  
Koliganek  
Kongiganak  
Kwethluk  
Kwigillingok  
Lake Minchumina  
Levelock  
Lime Village  
Lower Kalskag  
Manokotak  
Marshall  
McGrath  
Mekoryuk  
Mertarvik  
Naknek  
Napakiak  
Napaskiak  
Nelson Lagoon  
Newhalen  
New Stuyahok  
Newtok  
Nightmute  
Nikolai  
Niloksi  
Nondalton  
Nunapitchuk  
Oscarville  
Pedro Bay  
Perryville  
Pilot Point  
Platinum  
Pope-Vannoy Landing  
Port Alsworth  
Port Heiden  
Portage Creek  
Quinhagak  
Red Devil  
Russian Mission  
Saint George Island  
Saint Paul Island  
Sand Point  
Shageluk  
Sleetmute  
South Naknek  
Stony River  
Taktotna  
Togiak  
Toksook Bay  
Tuntutuliak  
Tununak  
Twin Hills  
Ugashik  
Unalaska  
Upper Kalskag

## SB 18 Sponsor Statement

Residents of rural Alaska routinely spend anywhere from 40 – 60% of their income on energy costs - heating and lighting their homes.

SB 18 proposes to add a borough option to state statute to specifically address the high cost of energy in rural Alaska. This “energy” borough option allows for taxation on a non-renewable resource within the borough area, and the ability to bond based on the revenue from the tax base. This proposed energy borough will have limited powers, including the ability to levy a limited property tax, enter into Payment in Lieu of Taxes (PILT) agreements; and issue bonds backed by the PILT to finance energy infrastructure projects. This proposed borough is not intended to provide education or other typical borough services.

### SB 18:

- **ALLOWS** an “energy borough” to levy a property tax and impose liens to enforce that tax, on property used to explore for, develop, or produce nonrenewable resources;
- **ALLOWS** the borough to enter into an agreement with a taxpayer to make “payments in lieu of taxes”, or PILT agreements;
- **ALLOWS** limited bonding capacity to finance energy infrastructure projects in the borough and only borrow money for energy projects;
- **ALLOWS** creation of an assembly to oversee the powers of the borough.

### SB 18:

- **Does NOT** allow taxes to pay for education;
- **Does NOT** allow taxes on individuals private property;
- **Is NOT** a mandate to form a borough – it just creates an “Energy Borough” option.

SB 18 is another tool in the toolbox for areas that have not found a borough option that suits their needs. SB 18 is not intended to ‘create another layer of government’, rather it allows areas another option to organize to utilize industry or resource that may help develop a cheaper, more reliable, energy source for the borough region.

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

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Mail Stop 3101

State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

March 13, 2017

**SUBJECT:** Sectional summary for CSSB 18 ( )  
(Work Order No. 30-LS0252\U)

**TO:** Senator Lyman Hoffman  
Attn: Maridon Boario

**FROM:** Susie Shutts *Susie Shutts*  
Legislative Counsel

You requested a sectional summary of the above-described bill. As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill, and the bill itself is the best statement of its contents.

**Section 1.** Amends AS 14.08.011(a), which states that it is the purpose of AS 14.08 to provide for public education in the unorganized borough and the military reservations in the state. Adds energy boroughs as a place where AS 14.08 aims to provide public education.

**Sections 2 - 4.** Amends AS 14.08.031 and AS 14.08.071, which describe how the unorganized borough is divided into educational service areas, (regional educational attendance areas with elected regional school boards) to provide that the area comprising the unorganized borough and energy boroughs will be divided into educational service areas.

**Section 5.** Amends AS 14.12.010, which currently states, in part, that each organized borough is a borough school district. This amendment in paragraph 2 precludes an energy borough from being a borough school district. The amendment in paragraph 1 allows a home rule and first class city in an energy borough to be a city school district. The amendment in paragraph 3 provides that the area outside first class, second class, third class, or home rule boroughs and outside home rule and first class cities is divided into regional educational attendance areas.

**Section 6 - 7.** Amends the definition of "regional educational attendance area" to include the area comprising energy boroughs in AS 14.60.010(7), for the purpose of Title 14, and in AS 23.40.250(8), for the purpose of AS 23.40.070 - 23.40.260.

**Section 8.** Amends AS 29.04.030 to add energy boroughs to the classes of general law municipalities.

Senator Lyman Hoffman  
March 13, 2017  
Page 2

**Section 9.** Amends AS 29.05.031(a), which authorizes an area that meets certain requirements to incorporate as a home rule, first class, or second class borough or unified municipality, to add that an area that meets those requirements may incorporate as an energy borough.

**Section 10.** Amends AS 29.35.160, which currently provides that each borough is a borough school district, to exclude energy boroughs.

**Section 11.** Adds a new section to AS 29.35, sec. 29.35.230, which sets forth the limited powers of an energy borough, which are notwithstanding any other provision of law.

SLS:boo  
17-263.boo

Public Comment\*

5 school dist - within the  
Charleston region  
10 villages 2020 / Rankin Borough

Lorraine Egnaty \*sleetmate\* -  
Joanni Blackburn another -

Rankin Borough my over the years  
single source of taxation = is it unconstitutional  
Keja Whitman. huge impacts on education 450 mil

5-N  
11/1

WORK DRAFT

WORK DRAFT

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*Bracked Takes Language out*

30-LS0252\U  
Shutts  
3/8/17

**CS FOR SENATE BILL NO. 18( )**

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - FIRST SESSION

**BY**

**Offered:  
Referred:**

**Sponsor(s): SENATOR HOFFMAN**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act creating energy boroughs."**

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

3 \* **Section 1.** AS 14.08.011(a) is amended to read:

4 (a) It is the purpose of this chapter to provide for public education in the  
5 unorganized borough, energy boroughs, and the military reservations in the state.

6 \* **Sec. 2.** AS 14.08.031(a) is amended to read:

7 (a) The Department of Commerce, Community, and Economic Development,  
8 in consultation with the Department of Education and Early Development and local  
9 communities, shall divide the area comprising the unorganized borough and energy  
10 boroughs into educational service areas using the boundaries or sub-boundaries of the  
11 regional corporations established under the Alaska Native Claims Settlement Act,  
12 unless by referendum a community votes to merge with another community  
13 contiguous to it but within the boundaries or sub-boundaries of another regional  
14 corporation.

15 \* **Sec. 3.** AS 14.08.031(b) is amended to read:

L

1 (b) An educational service area established in the area comprising the  
2 unorganized borough and energy boroughs under (a) of this section constitutes a  
3 regional educational attendance area. As far as practicable, each regional educational  
4 attendance area shall contain an integrated socio-economic, linguistically and  
5 culturally homogeneous area. In the formation of the regional educational attendance  
6 areas, consideration shall be given to the transportation and communication network to  
7 facilitate the administration of education and communication between communities  
8 that comprise the area. Whenever possible, municipalities, other governmental or  
9 regional corporate entities, drainage basins, and other identifiable geographic features  
10 shall be used in describing the boundaries of the regional school attendance areas.

11 \* **Sec. 4.** AS 14.08.071(a) is amended to read:

12 (a) In each regional educational attendance area in the area comprising the  
13 unorganized borough and energy boroughs, the lieutenant governor, within not less  
14 than 60, nor more than 90, days after the establishment of the regional educational  
15 attendance area, shall provide for the election of a regional school board.

16 \* **Sec. 5.** AS 14.12.010 is amended to read:

17 **Sec. 14.12.010. Districts of state public school system.** The districts of the  
18 state public school system are as follows:

19 (1) each home rule and first class city in the unorganized borough or  
20 in an energy borough is a city school district;

21 (2) each first class, second class, third class, or home rule  
22 [ORGANIZED] borough is a borough school district;

23 ? (3) the area outside first class, second class, third class, or home rule  
24 [ORGANIZED] boroughs and outside home rule and first class cities is divided into  
25 regional educational attendance areas.

26 \* **Sec. 6.** AS 14.60.010(7) is amended to read:

27 (7) "regional educational attendance area" means an educational  
28 service area in the area comprising the unorganized borough and energy boroughs,  
29 which may [OR MAY NOT] include a military reservation, and that contains one or  
30 more public schools with one or more grade levels of [GRADE LEVELS] K-12 [OR  
31 ANY PORTION OF THOSE GRADE LEVELS THAT ARE TO BE] operated under

1 the management and control of a single regional school board;

2 \* **Sec. 7.** AS 23.40.250(8) is amended to read:

3 (8) "regional educational attendance area" means an educational  
4 service area in the area comprising the unorganized borough and energy boroughs,  
5 which [THAT] may [OR MAY NOT] include a military reservation, and that contains  
6 one or more public schools with one or more grade levels of [GRADE LEVELS] K -  
7 12 [OR ANY PORTION OF THOSE GRADE LEVELS THAT ARE TO BE]  
8 operated under the management and control of a single regional school board;

9 \* **Sec. 8.** AS 29.04.030 is amended to read:

10 **Sec. 29.04.030. Classes of general law.** General law municipalities are of six  
11 [FIVE] classes:

- 12 (1) first class boroughs;  
13 (2) second class boroughs;  
14 (3) third class boroughs;  
15 (4) energy boroughs;  
16 (5) [(4)] first class cities;  
17 (6) [(5)] second class cities.

18 \* **Sec. 9.** AS 29.05.031(a) is amended to read:

19 (a) An area that meets the following standards may incorporate as a home rule,  
20 first class, [OR] second class, or energy borough, or as a unified municipality:

- 21 (1) the population of the area is interrelated and integrated as to its  
22 social, cultural, and economic activities, and is large and stable enough to support  
23 borough government;
- 24 (2) the boundaries of the proposed borough or unified municipality  
25 conform generally to natural geography and include all areas necessary for full  
26 development of municipal services;
- 27 (3) the economy of the area includes the human and financial resources  
28 capable of providing municipal services; evaluation of an area's economy includes  
29 land use, property values, total economic base, total personal income, resource and  
30 commercial development, anticipated functions, expenses, and income of the proposed  
31 borough or unified municipality;

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

4 \* **Sec. 10.** AS 29.35.160(a) is amended to read:

5 (a) Each **first class, second class, third class, and home rule** borough  
6 constitutes a borough school district and establishes, maintains, and operates a system  
7 of public schools on an areawide basis as provided in AS 14.14.060. A military  
8 reservation in a borough is not part of the borough school district until the military  
9 mission is terminated or until inclusion in the borough school district is approved by  
10 the Department of Education and Early Development. However, operation of the  
11 military reservation schools by the borough school district may be required by the  
12 Department of Education and Early Development under AS 14.14.110. If the military  
13 mission of a military reservation terminates or continued management and control by a  
14 regional educational attendance area is disapproved by the Department of Education  
15 and Early Development, operation, management, and control of schools on the  
16 military reservation transfers to the borough school district in which the military  
17 reservation is located.

18 \* **Sec. 11.** AS 29.35 is amended by adding a new section to article 3 to read:

19 **Sec. 29.35.230. Energy borough powers.** (a) Notwithstanding any other  
20 provision of law, an energy borough has only the following powers:

21 (1) to levy a property tax and impose a lien for its enforcement as  
22 provided in AS 29.45.020 - 29.45.500 on real and tangible personal property used to  
23 explore for, develop, or produce nonrenewable resources;

24 (2) to enter into an agreement with a taxpayer for the taxpayer to make  
25 a payment to the borough in lieu of taxes;

26 (3) to issue bonds to finance an energy infrastructure project in the  
27 borough; the borough may only borrow money and issue evidence of indebtedness for  
28 this purpose;

29 (4) to enact and enforce an ordinance necessary to carry out its powers  
30 under this subsection and to prescribe a civil penalty for violation of an ordinance.

31 (b) The legislative power of an energy borough shall be vested in the assembly

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under AS 29.20.050 - 29.20.180. The assembly shall enact and enforce ordinances under AS 29.25.010 - 29.25.075, except that an energy borough may not prescribe or enforce a penalty of imprisonment for violation of an ordinance.

(c) Notwithstanding any other provision of law, an energy borough may not acquire or exercise any power not listed under (a) of this section.

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 18

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - FIRST SESSION

BY SENATOR HOFFMAN

Introduced:  
Referred:

A BILL

FOR AN ACT ENTITLED

1 "An Act ~~relating to third class~~creating energy boroughs."

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

3 \* Section 1. AS 14.08.011(a) is amended to read:

4 (a) It is the purpose of this chapter to provide for public education in the  
5 unorganized borough, ~~third class~~energy boroughs, and the military reservations in  
6 the state.

7 \* Sec. 2. AS 14.08.031(a) is amended to read:

8 (a) The Department of Commerce, Community, and Economic Development,  
9 in consultation with the Department of Education and Early Development and local  
10 communities, shall divide the area comprising the unorganized borough ~~and third~~  
11 class energy boroughs into educational service areas using the boundaries or sub-  
12 boundaries of the regional corporations established under the Alaska Native Claims  
13 Settlement Act, unless by referendum a community votes to merge with another  
14 community contiguous to it but within the boundaries or sub-boundaries of another  
15 regional corporation.

1 \* **Sec. 3.** AS 14.08.031(b) is amended to read:

2 (b) An educational service area established in the area comprising the  
3 unorganized borough ~~and third class~~energy boroughs under (a) of this section  
4 constitutes a regional educational attendance area. As far as practicable, each regional  
5 educational attendance area shall contain an integrated socio-economic, linguistically  
6 and culturally homogeneous area. In the formation of the regional educational  
7 attendance areas, consideration shall be given to the transportation and communication  
8 network to facilitate the administration of education and communication between  
9 communities that comprise the area. Whenever possible, municipalities, other  
10 governmental or regional corporate entities, drainage basins, and other identifiable  
11 geographic features shall be used in describing the boundaries of the regional school  
12 attendance areas.

13 \* **Sec. 4.** AS 14.08.071(a) is amended to read:

14 (a) In each regional educational attendance area in the area comprising the  
15 unorganized borough ~~and third class~~energy boroughs, the lieutenant governor,  
16 within not less than 60, nor more than 90, days after the establishment of the regional  
17 educational attendance area, shall provide for the election of a regional school board.

18 \* **Sec. 5.** AS 14.12.010 is amended to read:

19 **Sec. 14.12.010. Districts of state public school system.** The districts of the  
20 state public school system are as follows:

21 (1) each home rule and first class city in the unorganized borough or  
22 in a third class energy borough is a city school district;

23 (2) each first class, second class, third class, or home rule  
24 [ORGANIZED] borough is a borough school district;

25 (3) the area outside first class, second class, third class, or home rule  
26 [ORGANIZED] boroughs and outside home rule and first class cities is divided into  
27 regional educational attendance areas.

28 \* **Sec. 6.** ~~AS 14.12.110 is amended to read:~~

29 ~~**Sec. 14.12.110. Single body as assembly and school board.** Notwithstanding~~  
30 ~~the provisions of this chapter or other law, a single body may serve as both the~~  
31 ~~assembly and school board in the manner provided under (b) of this section [FOR~~

1 ~~THIRD CLASS BOROUGH UNDER AS 29.20.300(b)], if~~

2 ~~(1) an ordinance for that purpose is approved by the assembly and~~  
3 ~~ratified by a referendum of a majority of the qualified borough voters voting on the~~  
4 ~~question at a regular or special election; and~~

5 ~~(2) the public school population within the borough is 500 pupils or~~  
6 ~~less.~~

7 ~~\* Sec. 7. AS 14.12.110 is amended by adding a new subsection to read:~~

8 ~~(b) When a single body serves as both the assembly and the school board, the~~  
9 ~~mayor is the presiding officer of the assembly and president of the school board.~~  
10 ~~However, the mayor may not veto an action of the school board.~~

11 ~~\* Sec. 8. AS 14.60.010(7) is amended to read:~~

12 (7) "regional educational attendance area" means an educational  
13 service area in the area comprising the unorganized borough and ~~third class~~energy  
14 boroughs, which may [OR MAY NOT] include a military reservation, and that  
15 contains one or more public schools with one or more grade levels of [GRADE  
16 LEVELS] K-12 [OR ANY PORTION OF THOSE GRADE LEVELS THAT ARE TO  
17 BE] operated under the management and control of a single regional school board;

18 \* ~~Sec. 97.~~ AS 23.40.250(8) is amended to read:

19 (8) "regional educational attendance area" means an educational  
20 service area in the area comprising the unorganized borough and ~~third class~~energy  
21 boroughs, which [THAT] may [OR MAY NOT] include a military reservation, and  
22 that contains one or more public schools with one or more grade levels of [GRADE  
23 LEVELS] K - 12 [OR ANY PORTION OF THOSE GRADE LEVELS THAT ARE  
24 TO BE] operated under the management and control of a single regional school board;

25 \* ~~Sec. 108.~~ AS 29.04.~~060(a)~~030 is amended to read:

26 ~~(a) A third class borough may reclassify as a Sec. first or second class borough~~  
27 ~~in the manner provided by AS 29.35.320 – 29.35.330 for the addition of an areawide~~  
28 ~~power by a first or second class borough, except the petition or proposal requests~~  
29 ~~reclassification instead of requesting addition of a power. [AT THE TIME OF~~  
30 ~~VOTING ON RECLASSIFICATION OF A THIRD CLASS BOROUGH TO FIRST~~  
31 ~~OR SECOND CLASS STATUS, VOTERS SHALL VOTE ALSO ON WHETHER~~

~~THE BOROUGH SHALL, ON RECLASSIFICATION, RETAIN A COMBINED ASSEMBLY AND SCHOOL BOARD OR ELECT A SEPARATE ASSEMBLY AND BOARD AS OTHERWISE PROVIDED FOR FIRST AND SECOND CLASS BOROUGH.~~

\*29.04.030. Classes of general law. General law municipalities are of six [FIVE] classes:

- (1) first class boroughs;
- (2) second class boroughs;
- (3) third class boroughs;
- (4) energy boroughs;
- (5) [(4)] first class cities;
- (6) [(5)] second class cities.

~~\* Sec. 9~~Sec. 11. AS 29.05.031(a) is amended to read:

(a) An area that meets the following standards may incorporate as a home rule, first class, [OR] second class, ~~or third class~~energy borough, or as a unified municipality:

- (1) the population of the area is interrelated and integrated as to its social, cultural, and economic activities, and is large and stable enough to support borough government;
- (2) the boundaries of the proposed borough or unified municipality conform generally to natural geography and include all areas necessary for full development of municipal services;
- (3) the economy of the area includes the human and financial resources capable of providing municipal services; evaluation of an area's economy includes land use, property values, total economic base, total personal income, resource and commercial development, anticipated functions, expenses, and income of the proposed borough or unified municipality;
- (4) land, water, and air transportation facilities allow the communication and exchange necessary for the development of integrated borough government.

\* ~~Sec. 12~~Sec. 10. AS ~~29.05.190~~(e)35.160(a) is amended to read:

1 (e) ~~This [EXCEPT AS PROVIDED IN (d) OF THIS SECTION, THIS]~~  
2 ~~section does not apply to a borough incorporated by consolidation or to a unified~~  
3 ~~municipality that occupies the area formerly occupied by a borough.~~

4 ~~\* Sec. 13. AS 29.06.090(a) is amended to read:~~

5 (a) ~~Two or more municipalities may merge or consolidate to form a single~~  
6 ~~general law or home rule municipality [, EXCEPT A THIRD CLASS BOROUGH~~  
7 ~~MAY NOT BE FORMED THROUGH MERGER OR CONSOLIDATION].~~

8 ~~\* Sec. 14. AS 29.06.470(a) is amended to read:~~

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

12 (1) ~~the municipality no longer meets the minimum standards~~  
13 ~~prescribed for incorporation by AS 29.05 [, OR FORMER AS 29.18.030 IF IT IS A~~  
14 ~~THIRD CLASS BOROUGH];~~

15 (2) ~~the municipality ceases to use each of its mandatory powers; or~~

16 (3) ~~the dissolution petition filed under AS 29.06.460 is signed by a~~  
17 ~~number of voters of the municipality proposed to be dissolved greater than 50 percent~~  
18 ~~of the number of votes cast in the last regular election in that municipality.~~

19 ~~\* Sec. 15. AS 29.20.300(a) is amended to read:~~

20 (a) ~~Each municipal school district has a school board. Members [EXCEPT~~  
21 ~~AS PROVIDED IN (b) OF THIS SECTION, MEMBERS] of a school board are~~  
22 ~~elected at the regular election for three year terms and until their successors take~~  
23 ~~office. Members are elected at large unless a different method of election has been~~  
24 ~~approved by the voters in a regular election.~~

25 ~~\* Sec. 16. AS 29.35.160(a) is amended to read:~~

26 (a) Each first class, second class, third class, and home rule borough  
27 constitutes a borough school district and establishes, maintains, and operates a system  
28 of public schools on an areawide basis as provided in AS 14.14.060. A military  
29 reservation in a borough is not part of the borough school district until the military  
30 mission is terminated or until inclusion in the borough school district is approved by  
31 the Department of Education and Early Development. However, operation of the

1 military reservation schools by the borough school district may be required by the  
 2 Department of Education and Early Development under AS 14.14.110. If the military  
 3 mission of a military reservation terminates or continued management and control by a  
 4 regional educational attendance area is disapproved by the Department of Education  
 5 and Early Development, operation, management, and control of schools on the  
 6 military reservation transfers to the borough school district in which the military  
 7 reservation is located.

8 \* ~~Sec. 1711.~~ AS 29.35.220 is ~~repealed and reenacted~~ amended by adding a new section to  
 9 article 3 to read:

10 ~~AS Sec. 29.35.220. Third class~~ 230. Energy borough powers. (a)

11 Notwithstanding any other provision of law, ~~a third class~~ an energy borough has only  
 12 the following powers:

13 (1) to levy a property tax and impose a lien for its enforcement as  
 14 provided in AS 29.45.020 - 29.45.500; on real and tangible personal property used to  
 15 explore for, develop, or produce nonrenewable resources;

16 (2) to enter into an agreement with a taxpayer for the taxpayer to make  
 17 a payment to the borough in lieu of taxes;

18 (3) to issue bonds to finance an energy infrastructure project in the  
 19 borough; the borough may only borrow money and issue evidence of indebtedness for  
 20 this purpose;

21 (4) to enact and enforce an ordinance necessary to carry out its powers  
 22 under this subsection and to prescribe a civil penalty for violation of an ordinance.

23 (b) The legislative power of ~~a third class~~ an energy borough shall be vested in  
 24 the assembly under AS 29.20.050 - 29.20.180. The assembly shall enact and enforce  
 25 ordinances under AS 29.25.010 - 29.25.075, except that ~~a third class~~ an energy  
 26 borough may not prescribe or enforce a penalty of imprisonment for violation of an  
 27 ordinance.

28 (c) Notwithstanding any other provision of law, ~~a third class~~ an energy  
 29 borough may not acquire or exercise any power not listed under (a) of this section.

30 ~~\* Sec. 18. AS 38.05.037(a) is amended to read:~~

31 ~~(a) In areas of the state outside first or [,] second [, OR THIRD] class~~

1 ~~boroughs where there is no municipality with a zoning power, the division of lands~~  
2 ~~shall exercise the zoning power by adopting zoning regulations.~~

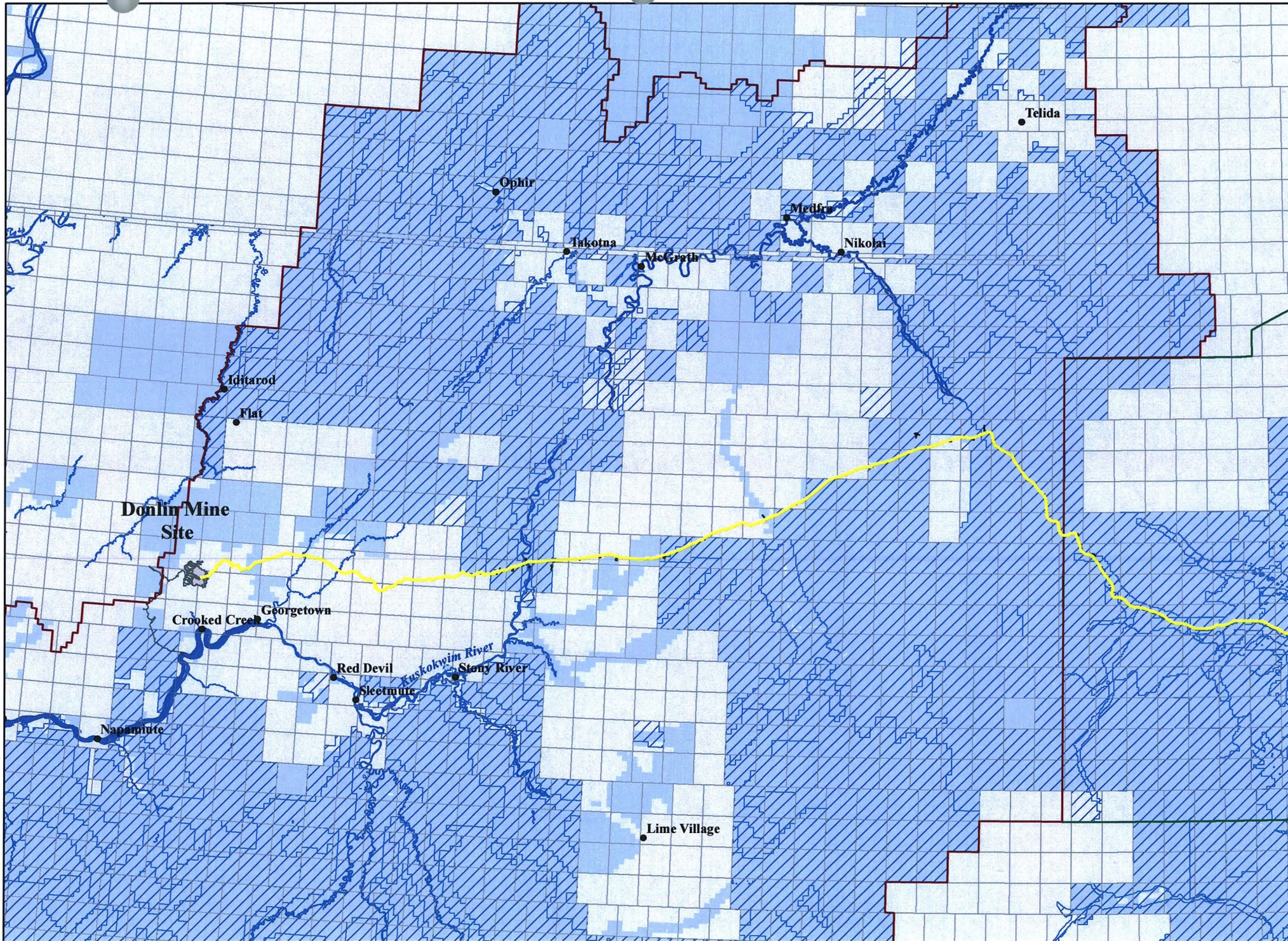
3 ~~\* Sec. 19. AS 46.14.400(a) is amended to read:~~

4 ~~(a) With the approval of the department, a municipality may establish and~~  
5 ~~administer within its jurisdiction a local air quality control program that operates in~~  
6 ~~lieu of and is consistent with all or part of the department's air quality program as~~  
7 ~~established under this chapter. A first or second class borough may administer an air~~  
8 ~~quality control program approved by the department under this subsection on an~~  
9 ~~areawide basis and is not subject to the restrictions for acquiring additional areawide~~  
10 ~~powers specified in AS 29.35.300– 29.35.350. [A THIRD CLASS BOROUGH MAY~~  
11 ~~ADMINISTER A LOCAL AIR QUALITY CONTROL PROGRAM APPROVED BY~~  
12 ~~THE DEPARTMENT UNDER THIS SUBSECTION ONLY IN A SERVICE AREA~~  
13 ~~FORMED UNDER AS 29.35.490(b) OR (c).]~~

14 ~~\* Sec. 20. AS 14.12.110; AS 29.04.060(b), 29.04.060(c); AS 29.05.031(b),~~  
15 ~~29.05.190(d); AS 29.10.080(b); and AS 29.20.300(b) are repealed.~~

Get Map-  
One Page on how a toro is created

# Donlin Mine Project Detail (Requested by Applic)



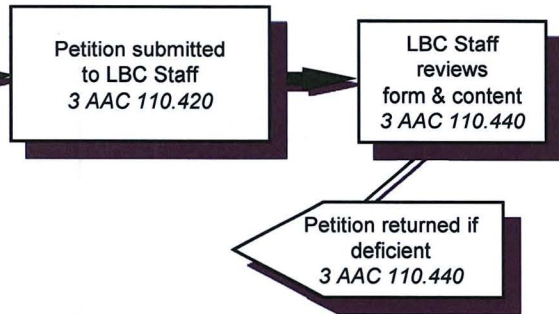
# Process for Borough Incorporation by Local Option

## STAGE ONE - FILING THE PETITION

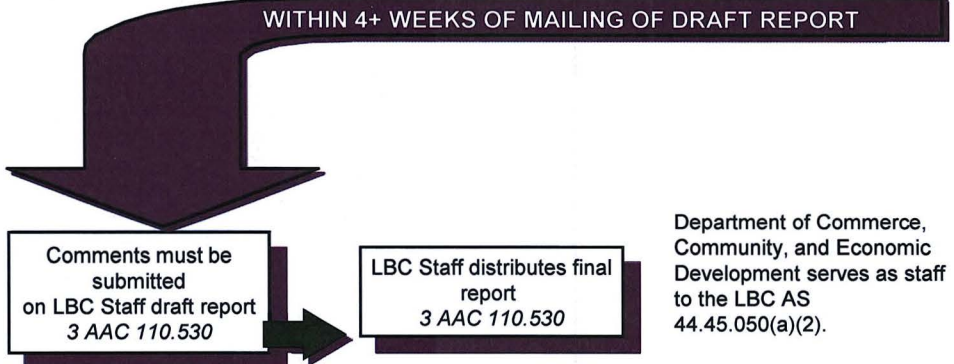
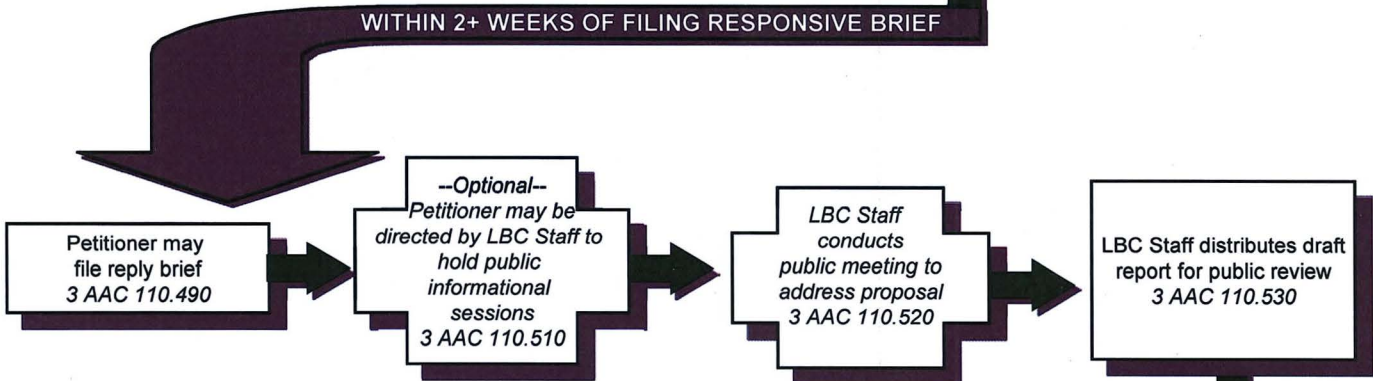
A petition for borough incorporation may be initiated by a petition containing the names signatures and resident addresses of:

A number of resident voters equal to 15% of the number of voters who voted in the last general election residing in home rule and first class cities in the area of the proposed borough, and;

A number of resident voters equal to 15% of the number of voters who voted in the last general election residing outside home rule and first class cities in the area of the proposed borough. [AS 29.05.060]

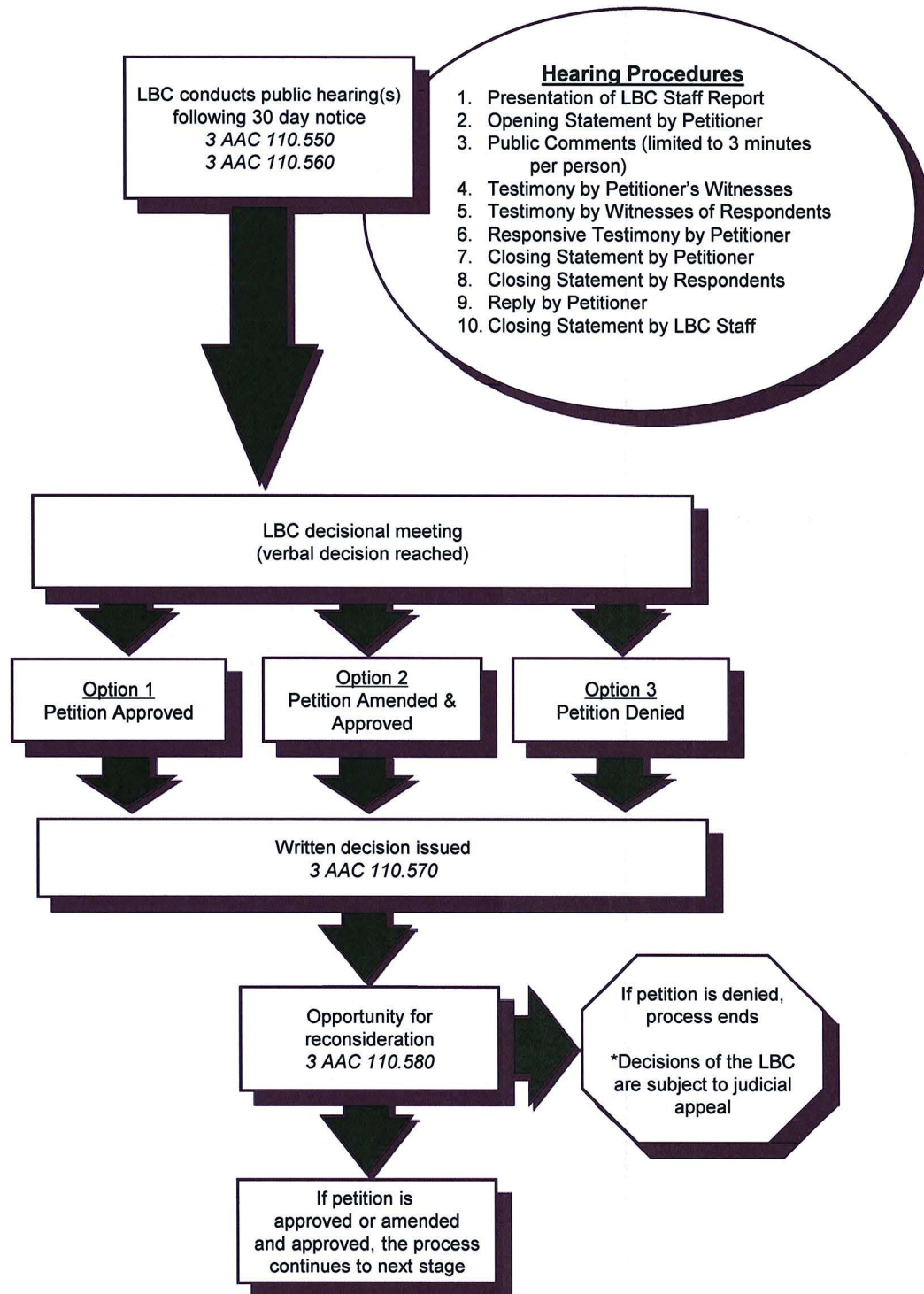


## STAGE TWO - PUBLIC REVIEW

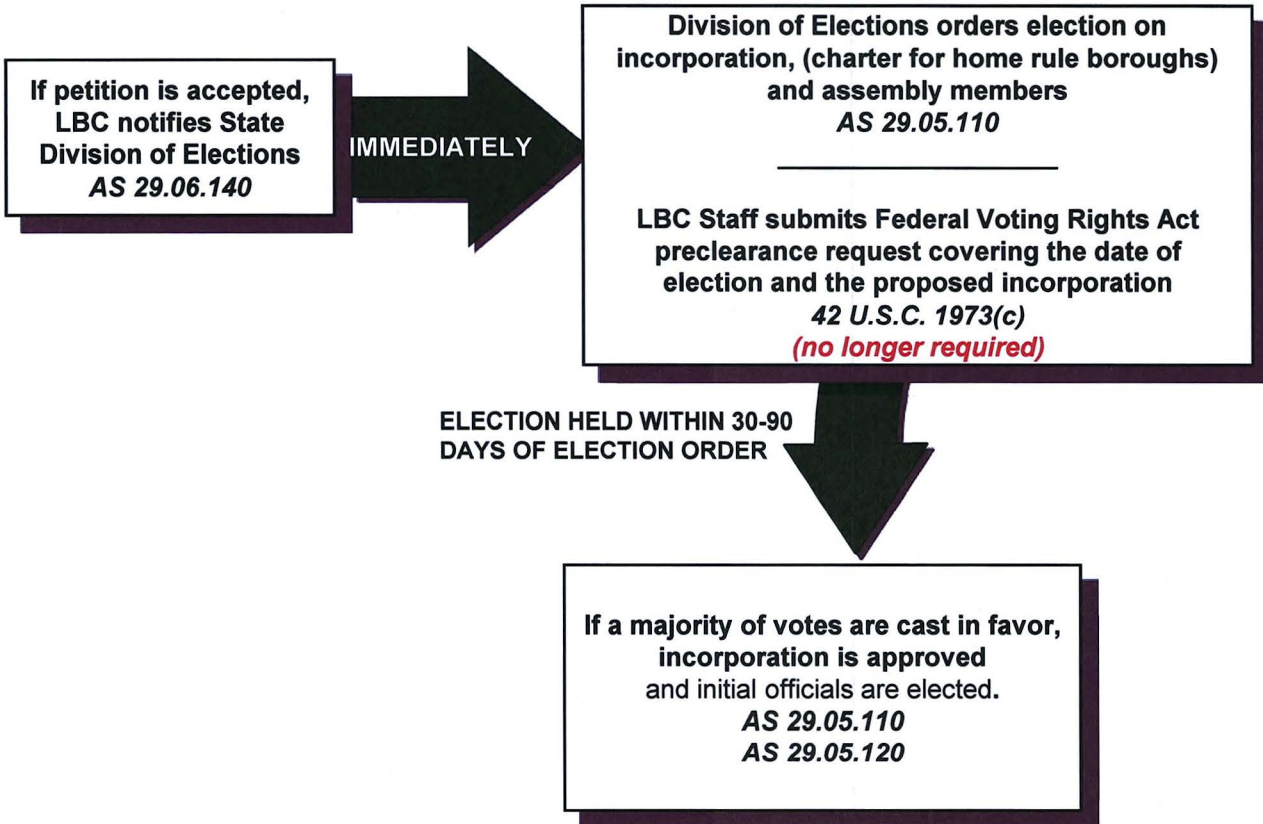


Department of Commerce, Community, and Economic Development serves as staff to the LBC AS 44.45.050(a)(2).

## STAGE THREE - HEARING AND DECISION BY LBC



### STAGE FOUR - ELECTION



### STAGE FIVE - TRANSITION

The powers and duties exercised by cities and service areas that are succeeded to by a newly incorporated borough continue to be exercised by the cities and service areas until the new borough assumes the powers and functions, which may not exceed 2 years after the date of incorporation. The new borough shall give written notice of assumption of all rights, powers, duties, assets, and liabilities of the former service provider. The ordinances, rules, resolutions, regulations, procedures, and orders of the service areas remain in force in the perspective territories until superceded.  
**AS 29.05.130 & AS 29.05.140**

## Procedures and Timelines for a petition by either The Local Option or Legislative Review Methods

Date	Action
Within 45 days of receipt of petition	LBC staff conducts technical review of petition. If the petition is technically complete, it is accepted for filing. If it is incomplete, it is returned to the petitioner for correction or completion.
Within 45 days of receiving notice of acceptance for filing	After the petition is accepted, public notice of the filing of the petition is provided.
At least 49 days after initial publication or posting notice	Opportunity for comment (filing of responsive briefs and written comments). Petitioner can be asked to conduct public informational meetings during the 7+ week comment period.
At least 14 days	Petitioner replies to the responsive briefs and comments.
7 weeks (estimate, chair's discretion)	LBC staff prepares and distributes preliminary report with recommendations for public review and comment.
At least 28 days from mailing of preliminary report	Opportunity for public review and comment on the preliminary report.
3 weeks (estimate, chair's discretion)	LBC staff considers comments on preliminary report and makes appropriate changes to its report and recommendation. The final report is issued for public review.
At least 21 days from the mailing of the final report	LBC conducts public hearing(s).
Within 90 days of hearing	LBC conducts public meeting(s) and reaches a decision (often made immediately after hearing).
Within 30 days of decisional meeting	LBC issues written decision.
Within 30 days of the written decision being issued	Any public member may request reconsideration within 18 days after the written decision is issued. The LBC may grant a reconsideration request, or order reconsideration on its own motion within 30 days after the written decision is issued.
If petition is denied, LBC process ends (parties may appeal LBC action to superior court)	If approved by the LBC, the petition is subject to review by the legislature or approval by the voters in the area approved for change.

Most of these times are set at a minimum by 3 AAC 110.640. The chair has the authority to set the schedule and can allow more time than required for public comment, staff reports, and hearing schedule.

Please note that this is not an exhaustive list of requirements. There are other requirements (e.g. serving the petition, arranging PSAs, departmental information meetings) that occur during the petition process outlined above.



THE STATE  
of **ALASKA**  
GOVERNOR BILL WALKER

**Department of Commerce, Community,  
and Economic Development**

OFFICE OF THE COMMISSIONER

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Fax: 907.465.5442

April 11, 217

The Honorable Lyman Hoffman  
Alaska State Senate  
State Capitol, Room 519  
Juneau, AK 99801

Dear Senator Hoffman,

Per your request, we have compiled our thoughts as to the main concerns voiced by Lamar Cotten. We respectfully defer to the Department of Law or Legislative Legal regarding the constitutionality of taxation for one industry.

SB 18 encourages and facilitates the formation of a new type of third class borough in the unorganized borough with limited authority and responsibility. The bill allows for the continuation of the relationship between the state and the region regarding school funding and school administration. The bill provides a mechanism for public financing of energy infrastructure projects utilizing a local property tax or a payment in lieu of tax for that single purpose. Our interpretation of the legislation is that the energy infrastructure project assets would be owned by the municipality.

Mr. Cotten is accurate that this new borough type would not have planning authorities. While we concur that planning is an important role of local governments, we do not see an inherent problem with creating an optional formation type that does not include that power.

Finally, expansion of the Port Authority statutes would require that the State implement a tax and distribute, as AS29.35.665 specifically prohibits levying a tax. Without additional information regarding Mr. Cotten's intent for the expansion of 29.35 we cannot offer further comment on that proposal.

If you have additional questions or concerns please feel free to contact my special assistant, Micaela Fowler, at 907-465-2503.

Sincerely,

A handwritten signature in blue ink, appearing to read "Chris Hladick".

Chris Hladick  
Commissioner

# Borough Incorporation

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"Borough incorporation" means the creation of a regional municipal government to provide government and services at the regional level. There are four types of organized boroughs in Alaska, with some differences in how they are organized and varying powers and duties. These differences are discussed in detail in the Division of Community and Regional Affairs publication, 2015 Local Government in Alaska.

## Narrative

Borough incorporation requires a big commitment of time and other resources. Before making a decision to begin work on incorporation, a lot of thought should be given to researching and planning the process. The borough incorporation process follows a set chain of events, which formally begins when a signed petition and other required documents are filed with the Local Boundary Commission (LBC). Staff from the Division of Community and Regional Affairs then reviews the petition and documentation and submits it to the LBC with any recommendations.

A region must have an adequate economy, population, transportation, and communication infrastructure to support the proposed borough government. Moreover, the population of the region must be socially, culturally, and economically interrelated and integrated in a regional context. The proposed boundaries must embody the characteristics intended for borough governments. Also, the proposal must serve the broad policy benefit to the public statewide. A region may incorporate a borough government if it meets the standards established in law (Article X of the Constitution of the State of Alaska, AS 29.05.031, AS 29.05.100, 3 AAC 110.045 - .065, and 3 AAC 110.900 - .980).

This chapter provides an overview of basic information about borough incorporation. Incorporation is a complex matter that cannot be covered completely in this brief overview. This overview does, however, provide information and links to applicable law, additional publications, and staff available to provide assistance on borough incorporation.

## Frequently Asked Questions (FAQ)

*What are the available options for borough incorporation?*

There are four types of organized borough government in Alaska (unified home rule, home rule, first class, and second class.)

State law requires organized boroughs to provide education on an areawide basis (AS 29.35.160). All organized boroughs must also provide planning, platting, land use regulation, and tax collection and assessment on an areawide basis. State law does not mandate boroughs to provide any other particular service or facility; however, each class of borough government has broad authority to exercise powers. Every borough also has certain general obligations, including annual audits or financial reports, regular elections, codification of ordinances, regular meetings of the borough assembly, etc.

When proposing incorporation of a home rule borough (unified or non-unified), petitioners must prepare a charter, which is the equivalent of a local government constitution. It is important to keep in mind that writing a charter requires a lot of community know-how and commitment beyond that required for incorporation of a general law borough.

### *Who can petition to incorporate?*

A borough government is usually created by a petition submitted by voters within a region. (Although the state can create borough governments on its own initiative, it has not done so since 1963-64 when it incorporated eight boroughs.)

A voter-initiated petition to incorporate a borough must be signed by at least:

Fifteen percent of the number of voters inside home rule and first class cities within the area proposed for borough incorporation that voted during the last general election; and

Fifteen percent of the number of voters outside home rule and first class cities within the area proposed for borough incorporation that voted during the last general election.

### *What are the "pros" and "cons" of borough incorporation?*

The advantages and disadvantages of forming a new borough government will vary depending on the community and the type of borough proposed for incorporation. Generally, people supporting incorporation stress that a borough would provide greater local control and the means to provide essential local services. People against incorporation generally focus on new taxes and fees among the possible problems. Also, if the community is within a city, critics frequently stress that the city can provide any needed services, and that a borough would just be an unnecessary additional layer of government. It is important to explore the pros and cons of incorporation carefully before beginning any work on incorporation.

### *Are there criteria that guide the development of a borough incorporation petition?*

Yes, the criteria are found in Article X of the Constitution of the State of Alaska, AS 29.05.031, AS 29.05.100, and 3 AAC 110.045 -.065. These criteria should be carefully reviewed when deciding whether to incorporate and what type of incorporation to pursue. If the prospective petitioners decide to pursue incorporation, the criteria should also be used to guide the development of the petition. The Department of Commerce, Community, and Regional Affairs (DCRA) will frame its recommendation to the LBC based on these criteria, and the LBC will apply these same criteria to judge the merits of the petition.

### *What boundaries are appropriate for a new borough?*

Borough governments are regionally-based municipalities. Legal standards for borough boundaries are provided in Article X (particularly Section 3) of the Constitution, AS 29.05.031 and 3 AAC 110.045-.060.

*Are state grants available to study the feasibility and need for a new borough government?*

No. State funding for studies of a prospective borough government is not currently available.

*Does the state provide technical assistance to citizens who wish to incorporate?*

Yes, the staff of the Local Boundary Commission provides certain assistance to prospective petitioners. Assistance includes providing petition forms and sample successful proposals, consultation regarding policy issues, guidance regarding technical matters and direction concerning sources of information needed to complete a petition. While the state can provide some assistance, the burden of preparing a proper petition remains with the petitioners.

*If a group opposes incorporation, does the state assist it as well?*

Yes. The staff of the Local Boundary Commission will also provide assistance to any individual and organization that wishes to express views opposing an incorporation proposal. Assistance to opponents might include providing sample responsive briefs filed in opposition to prior petitions, consultation regarding policy issues, guidance regarding technical matters, and direction where fundamental information is needed to complete a responsive brief in opposition to a proposal can be obtained.

*Can a petition be amended after it is filed?*

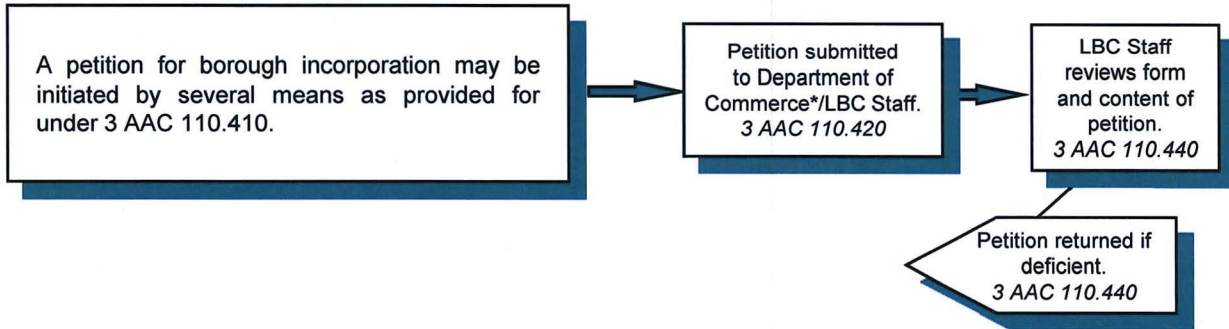
Yes, the petitioners may amend the petition. The Local Boundary Commission can also amend or impose conditions on an incorporation proposal following a public hearing. Ideally, however, with careful planning and proper consultation before the filing of a petition, amendments can be avoided. Amending a petition may, under certain circumstances, cause delays in the consideration of the petition.

*How long does it take to incorporate?*

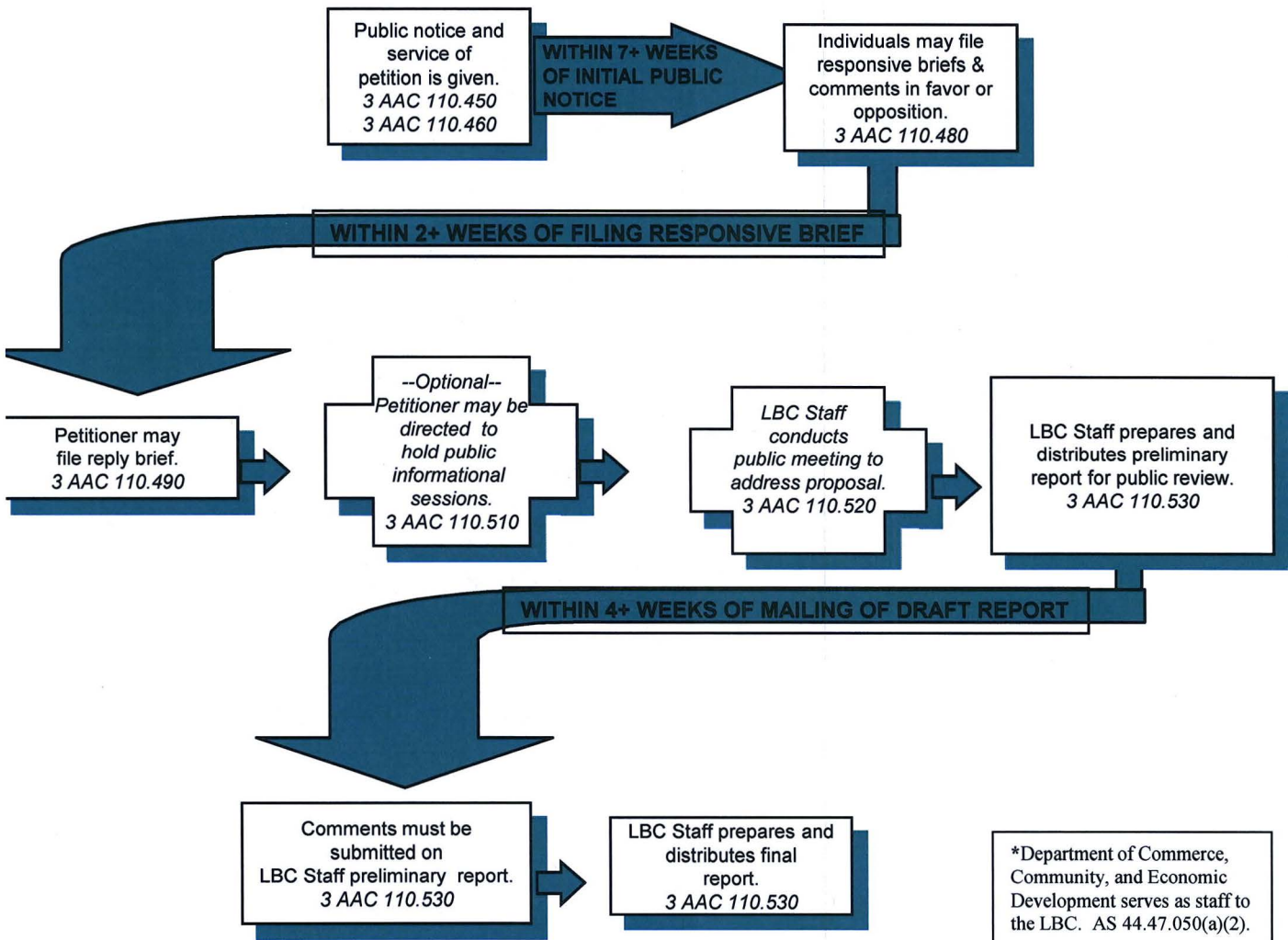
It typically takes several months (in some cases a year or more depending on the local effort) to prepare a proper petition. Prospective petitioners are encouraged to work closely with the LBC staff in developing a petition. Once a petition is completed and the necessary signatures have been gathered, the petition is filed with the Local Boundary Commission. The process for review of the proposal by the LBC typically takes about one year. If the commission approves the petition, the state will conduct a local election on the matter. The process for the incorporation election typically involves about three months.

# PROCEDURES FOR BOROUGH INCORPORATION BY LEGISLATIVE REVIEW

## STAGE ONE - FILING THE PETITION

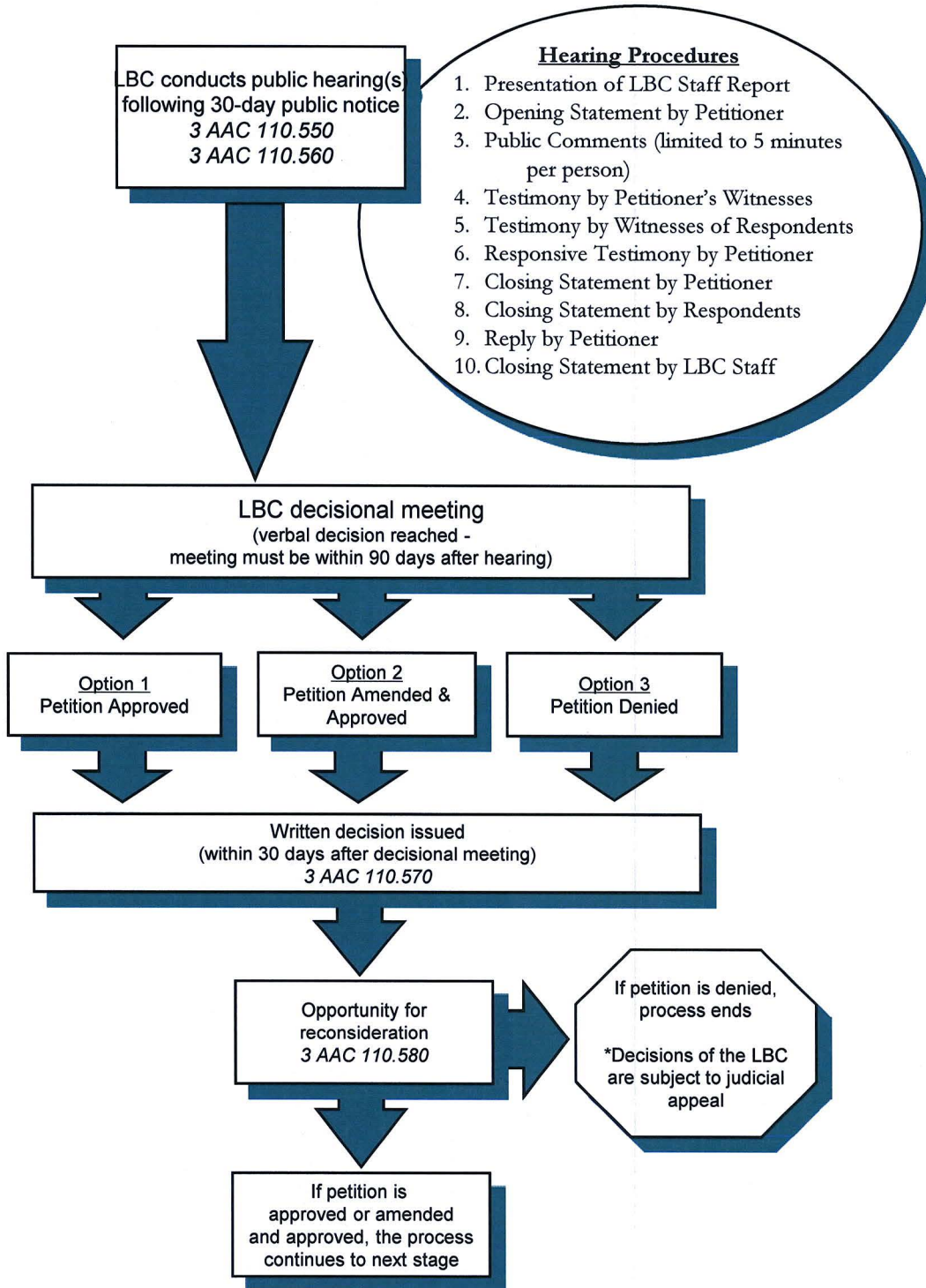


## STAGE TWO - PUBLIC REVIEW



\*Department of Commerce, Community, and Economic Development serves as staff to the LBC. AS 44.47.050(a)(2).

## STAGE THREE - HEARING AND DECISION BY LBC



**STAGE FOUR - LEGISLATIVE REVIEW**

If petition is accepted, LBC sends recommendation to the Legislature during the first ten days of a regular session (Alaska Const. Art. X, § 12).

Change becomes effective within 45 days after presentation to the Legislature 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 (Alaska Const. Art. X, § 12).

If incorporation is effective, LBC Staff submits Federal Voting Rights Act preclearance request covering the date of the proposed incorporation 42 U.S.C. 1973(c).  
*(no longer required)*

**STAGE FIVE - TRANSITION**

The powers and duties exercised by cities and service areas that are succeeded to by a newly incorporated borough continue to be exercised by the cities and service areas until the new borough assumes the powers and functions, which may not exceed 2 years after the date of incorporation. The new borough shall give written notice of assumption of all rights, powers, duties, assets, and liabilities of the former service provider. The ordinances, rules, resolutions, regulations, procedures, and orders of the service areas remain in force until superseded.

**AS 29.05.130 & AS 29.05.140**

# Process for Borough Incorporation by Local Option

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Petition submitted to LBC Staff  
3 AAC 110.420

LBC Staff reviews form & content  
3 AAC 110.440

Petition returned if deficient  
3 AAC 110.440

## STAGE TWO - PUBLIC REVIEW

Public notice & service of petition is given  
3 AAC 110.450  
3 AAC 110.460

WITHIN 7+ WEEKS OF INITIAL PUBLIC NOTICE

Individuals may file responsive briefs & comments in favor or opposition  
3 AAC 110.480

WITHIN 2+ WEEKS OF FILING RESPONSIVE BRIEF

Petitioner may file reply brief  
3 AAC 110.490

--Optional--  
Petitioner may be directed by LBC Staff to hold public informational sessions  
3 AAC 110.510

LBC Staff conducts public meeting to address proposal  
3 AAC 110.520

LBC Staff distributes draft report for public review  
3 AAC 110.530

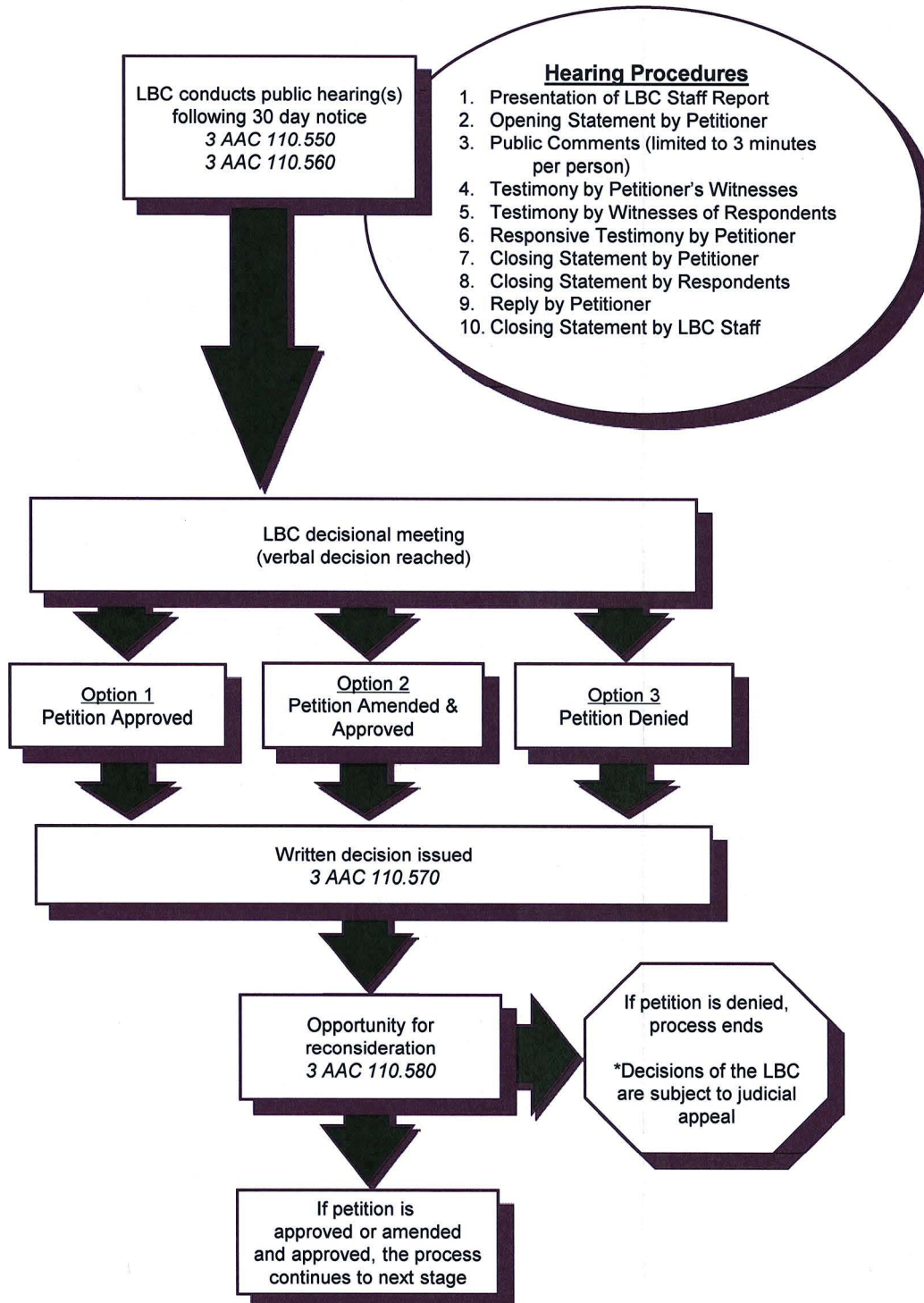
WITHIN 4+ WEEKS OF MAILING OF DRAFT REPORT

Comments must be submitted on LBC Staff draft report  
3 AAC 110.530

LBC Staff distributes final report  
3 AAC 110.530

Department of Commerce, Community, and Economic Development serves as staff to the LBC AS 44.45.050(a)(2).

## STAGE THREE - HEARING AND DECISION BY LBC



### STAGE FOUR - ELECTION

If petition is accepted,  
LBC notifies State  
Division of Elections  
AS 29.06.140



Division of Elections orders election on  
incorporation, (charter for home rule boroughs)  
and assembly members  
AS 29.05.110

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LBC Staff submits Federal Voting Rights Act  
preclearance request covering the date of  
election and the proposed incorporation  
42 U.S.C. 1973(c)  
*(no longer required)*

ELECTION HELD WITHIN 30-90  
DAYS OF ELECTION ORDER

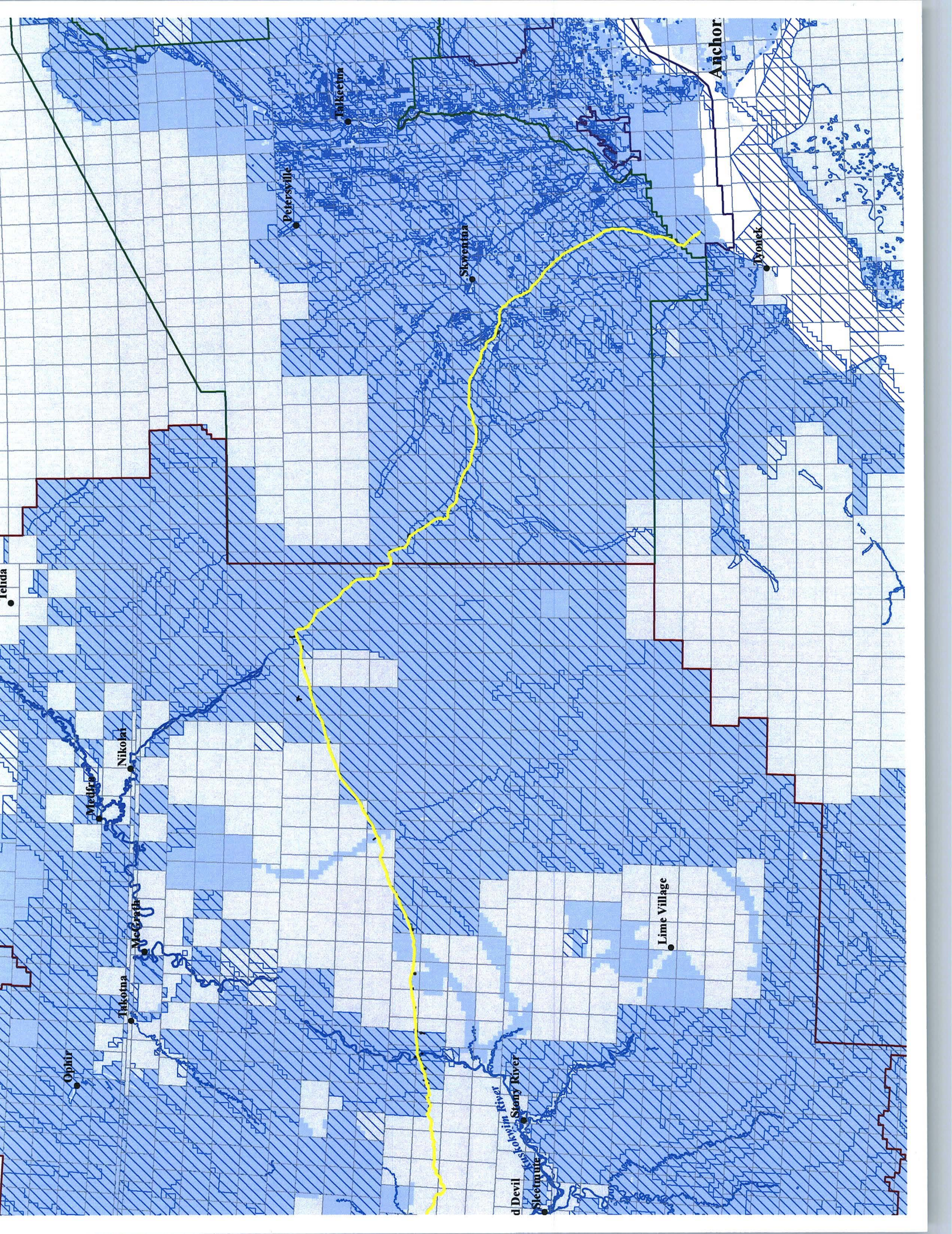


If a majority of votes are cast in favor,  
incorporation is approved  
and initial officials are elected.  
AS 29.05.110  
AS 29.05.120

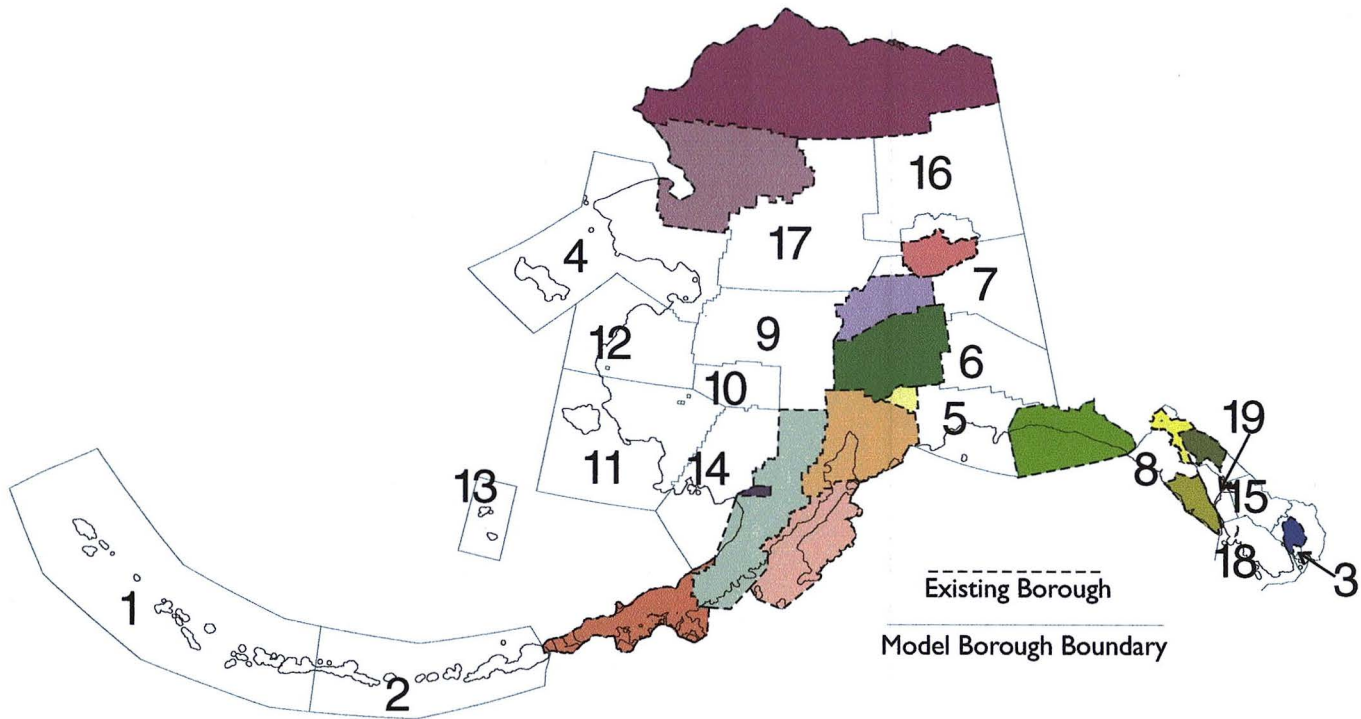
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AS 29.05.130 & AS 29.05.140





# Model Borough Boundaries



- 1. Aleutian - Military
- 2. Aleutians West Region
- 3. Annette Island Reserve
- 4. Bering Straits
- 5. Prince William Sound
- 6. Copper River Basin
- 7. Upper Tanana Basin
- 8. Glacier Bay
- 9. Iditarod Region
- 10. Kuspuk
- 11. Lower Kuskokwim
- 12. Lower Yukon
- 13. Pribilof Islands
- 14. Dillingham-Nushagak-Togiak
- 15. Wrangell/Petersburg
- 16. Yukon Flats
- 17. Yukon-Koyukuk
- 18. Prince of Wales Island
- 19. Chatham

# MODEL BOROUGH BOUNDARIES

(REVISED JUNE 1997)

## PURPOSE OF THE MODEL BOROUGH BOUNDARY STUDY

Article X, Section 3 of Alaska's constitution requires the entire state to be divided into boroughs, organized or unorganized. It further provides that each borough must embrace an area and population with common interests to the maximum degree possible.

To carry out the constitutional mandate that the state be divided into boroughs, the 1961 legislature passed a law providing that all areas not within the boundaries of an organized borough constitute a single unorganized borough.<sup>1</sup> At the time the law was passed, no organized borough existed. Thus, all of Alaska was originally within the unorganized borough. The establishment of a single residual unorganized borough was seemingly done to preserve maximum flexibility in the setting of boundaries for organized boroughs.

From its beginning, the unorganized borough has always embraced an area and population with greatly diverse interests. Some take the position that the constitutional mandate that each borough embrace an area and population with maximum common interests was never intended to apply to unorganized boroughs. However, others take the opposite view.<sup>2</sup>

In the late 1980's four boroughs attempted to annex portions of the unorganized borough. Several factors precipitated those actions. Among them were declining State aid to local governments and local concerns over the allocation and development of resources.

The unorganized borough's lack of maximum common interests among its parts also contributed to the borough annexation frenzy. In some instances, the annexation petitions precipitated the filing of competing proposals to incorporate new organized boroughs.

In October of 1988, the Kodiak Island Borough petitioned to annex an estimated 12,825 square miles. That prompted residents of the Alaska Peninsula to petition for the incorporation of the Lake and Peninsula Borough. The proposed Lake and Peninsula Borough contained an estimated 16,675 square miles, including much of the territory proposed for annexation to the Kodiak Island Borough.

In May of 1989, the Fairbanks North Star Borough petitioned to annex 216 square miles. The area in question contained substantial taxable property, comprised principally of pump station #7 of the trans-Alaska oil pipeline and some 16 miles of the pipeline. Residents of the

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<sup>1</sup> That law is currently codified as AS 29.03.010.

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<sup>2</sup> The appendix lists the basis for some of the opposing views.

adjacent area were hostile to the proposed annexation. While the annexation petition prompted the adjacent region to conduct a study of the feasibility of forming a borough, no competing petition was ever filed.

In June of 1989, the City and Borough of Juneau petitioned to annex 140 square miles. The area in question contained the Greens Creek Mine. Again, while the annexation proposal was resolutely opposed by inhabitants of the adjacent region, no competing borough proposal was filed.



In June of 1989, the Matanuska-Susitna Borough petitioned to annex an estimated 9,844 square miles to and including Healy. In October of that year, residents of the Railbelt Regional Educational Attendance Area filed a competing petition for the formation of the Denali Borough. The boundaries of the proposed Denali Borough encompassed an estimated 9,406 square miles, including much of the territory proposed for annexation by the Matanuska-Susitna Borough. That same month, another group of residents filed an unprecedented third competing petition for incorporation of the Valleys Borough. The Valleys Borough proposal took in an estimated 14,900 square miles, including most of the proposed Denali Borough as well as the community of Nenana.

Amid the intensive activity, it was readily apparent that three groups had a significant stakes in any borough boundary decision. These were

residents within the proposed boundaries, people of the adjacent areas and the state as a whole. Further, it was amply evident that proposals for the formation of new boroughs or the expansion of boundaries of existing boroughs are sensitive issues in Alaska. Lawsuits or long-standing boundary disputes tend to erupt each time a borough incorporation or annexation proposal is advanced.

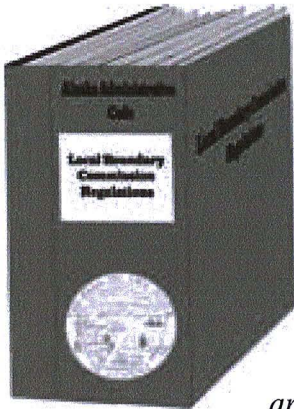
On the basis of such factors, the Commission concluded that, rather than examining borough boundaries only when petitions are lodged, it would invite

public testimony from throughout the entire state and adopt 'model borough boundaries' throughout the unorganized borough. Such 'model' boundaries were to be used as a frame of reference in the evaluation of future petitions. They were to 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 staff provided by the Department of Community and Regional Affairs (DCRA) began planning the model borough boundary study in mid-1989. They focused first on the areas of the state for which borough annexation or incorporation petitions were pending. The effort to determine specific boundaries began in earnest in 1990 and was completed by the end of 1992. Specific funding for the project had been appropriated by the Alaska legislature.

Because borough formation and annexation proposals are often very emotional issues in Alaska, the Commission's reason for pursuing the model borough boundary project was occasionally misunderstood. The purpose of the study was not to force the incorporation of new boroughs or to promote annexation to existing boroughs. Instead, the study was intended to enable the Commission and DCRA to be better prepared for future borough petitions through the information and public comment obtained in the study process. The study also encouraged communities in the unorganized borough to consider where future boundaries should be drawn, as well as give guidance to petitioners on the factors which go into borough incorporation decisions.

The Commission adopted two provisions in its regulations relating to model borough boundaries. Both provisions were adopted prior to the completion of the model borough boundaries project.



The first provision relates to the incorporation of new boroughs. 19 AAC 010.060(b) provides that, "*Absent a specific and persuasive showing to the contrary, the commission will not approve a proposed borough with boundaries extending beyond the model borough boundaries*

*adopted by the commission.*" [effective 10/12/91, register 120]

The second provision relates to borough annexation proposals. 19 AAC 010.190(c) provides, "Absent a specific and persuasive showing to the contrary, the commission, in its discretion, will not approve a proposed borough or unified municipality with boundaries extending beyond the model borough boundaries adopted by the commission and identified in the 1992 Interim Report on Model Borough Boundaries." [effective 7/31/92, register 123]

The provisions in the regulation make it clear that the model borough 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.

## STUDY PROCEDURES

The Commission began its study of each area by sending out an eight-page tabloid which explained the study and set out the questions the Commission 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 Commission held hearings in as many communities as resources allowed. At the completion of the project, hearings had been conducted by the Commission in 88 communities (either in person or by teleconference).

The study prompted residents and organizations throughout the state to articulate where they believed future boundaries should be

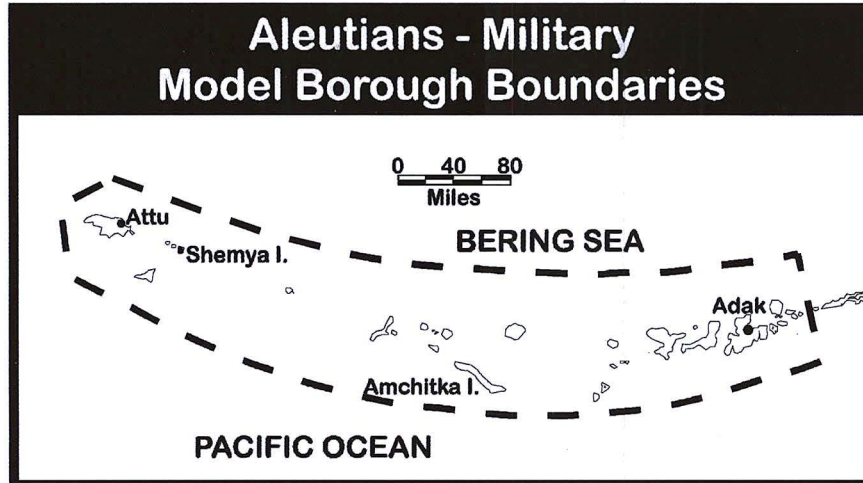
set. Municipal governments and other public and private local and regional organizations helped execute the model boundaries project. Many hundreds of interested parties provided written comment or oral testimony.

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

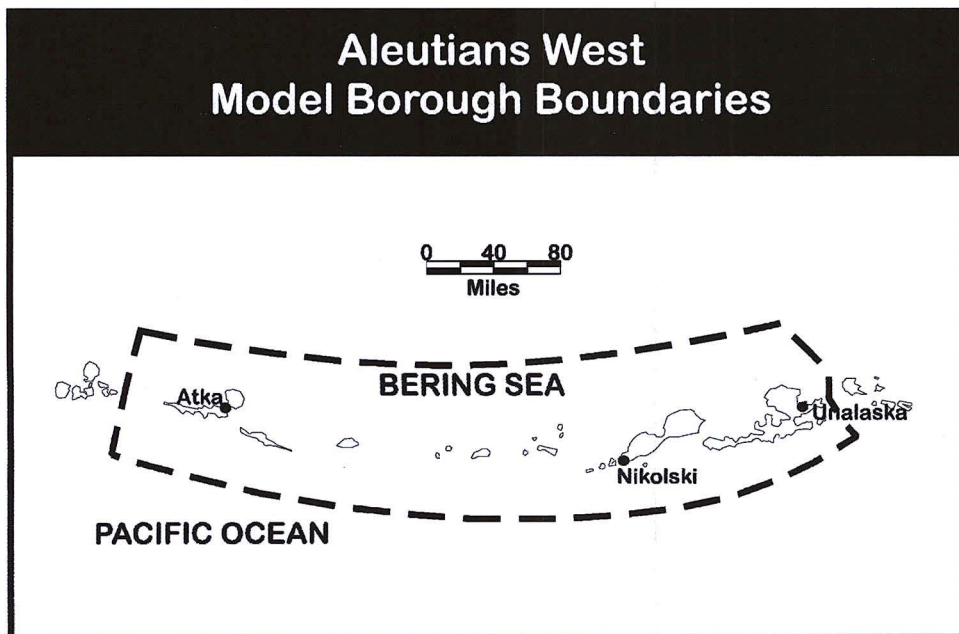
Maps and a brief discussion of model borough boundaries adopted by the Commission follow.

## MODEL BOROUGH BOUNDARIES

**Aleutians - Military Region.** The Commission conducted a public hearing on model boundaries for this region by teleconference with Adak on October 21, 1992. On November 21, 1992, the Commission set model boundaries for the region extending 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. In 1990, the area had a population of 5,345.

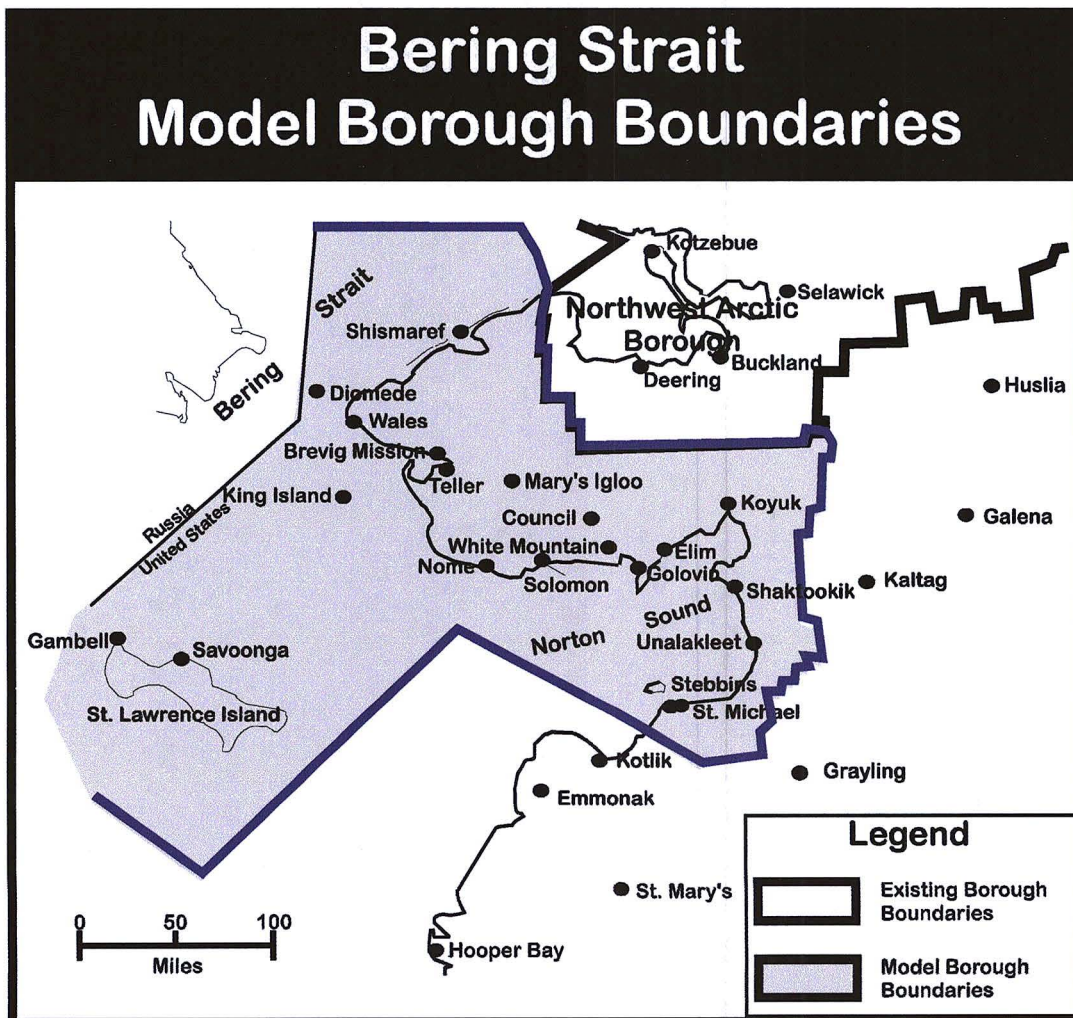


**Aleutians West Region.** The Commission received testimony on model boundaries in this region through public hearings with teleconference participation from Atka, Unalaska and Akutan on November 5, 1992. The Commission set model boundaries for the area on November 21, 1992. The boundaries extend from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



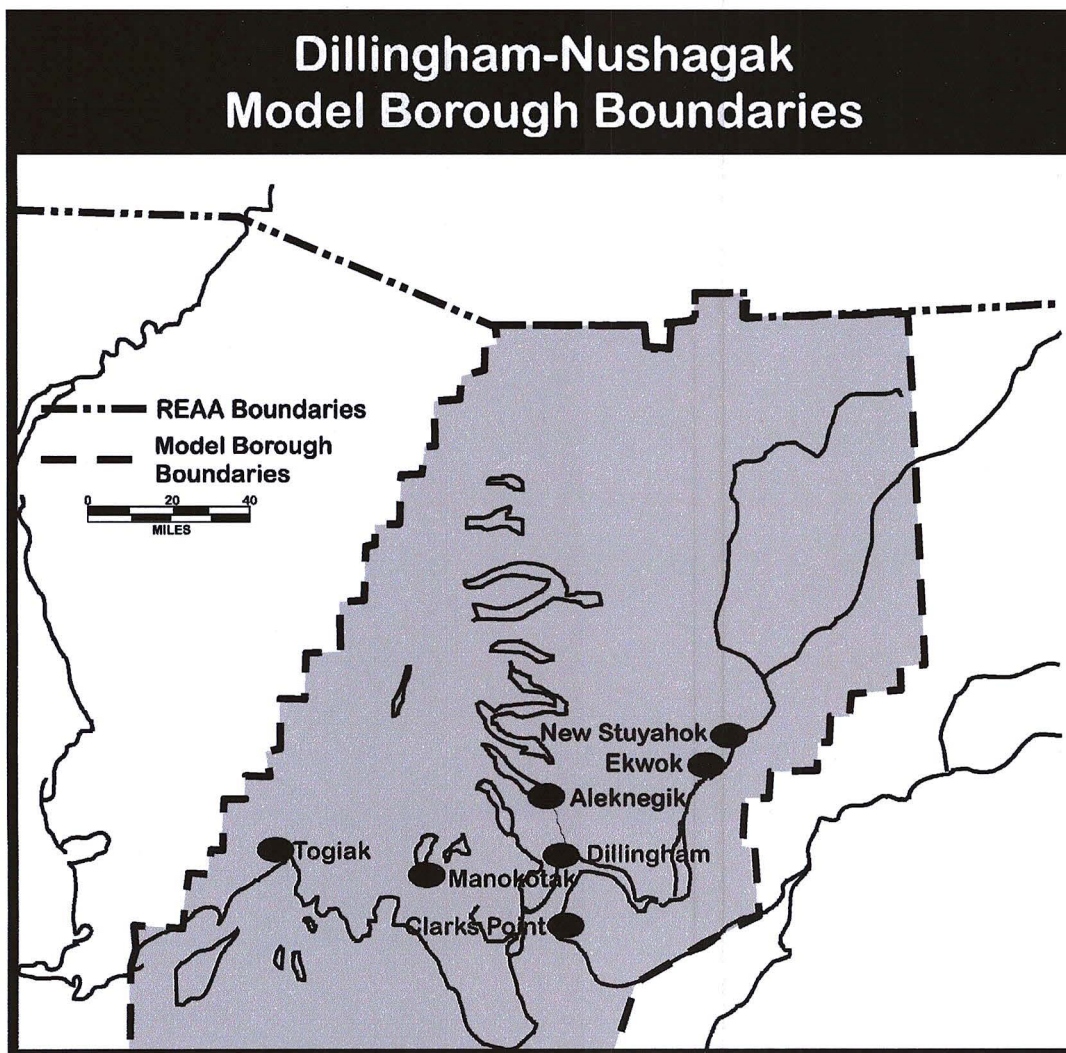
**Bering Straits Region.** The Commission held two hearings on model boundaries for this region in October 1991. The hearings took place in Nome and Unalakleet, with teleconference sites in Elim, Koyuk, Stebbins and Savoonga. Following the hearings, the Commission approved DCRA's recommendation and formally defined the model boundaries for this region to follow the boundaries of the Bering Straits Regional Educational Attendance Area (REAA). Those boundaries also match the boundaries of the Bering Straits Native Corporation, Bering Straits Coastal Resource Service Area, Nome Census District, Norton Sound Health Corporation and Bering Straits Economic Council.

The model boundaries for a Bering Straits Region borough include an estimated 23,013 square miles of land and 5,264 square miles of water. The area contains two school districts, the City of Nome School District and the Bering Straits REAA. The 1990 Federal Census indicates that the region had 8,288 residents.

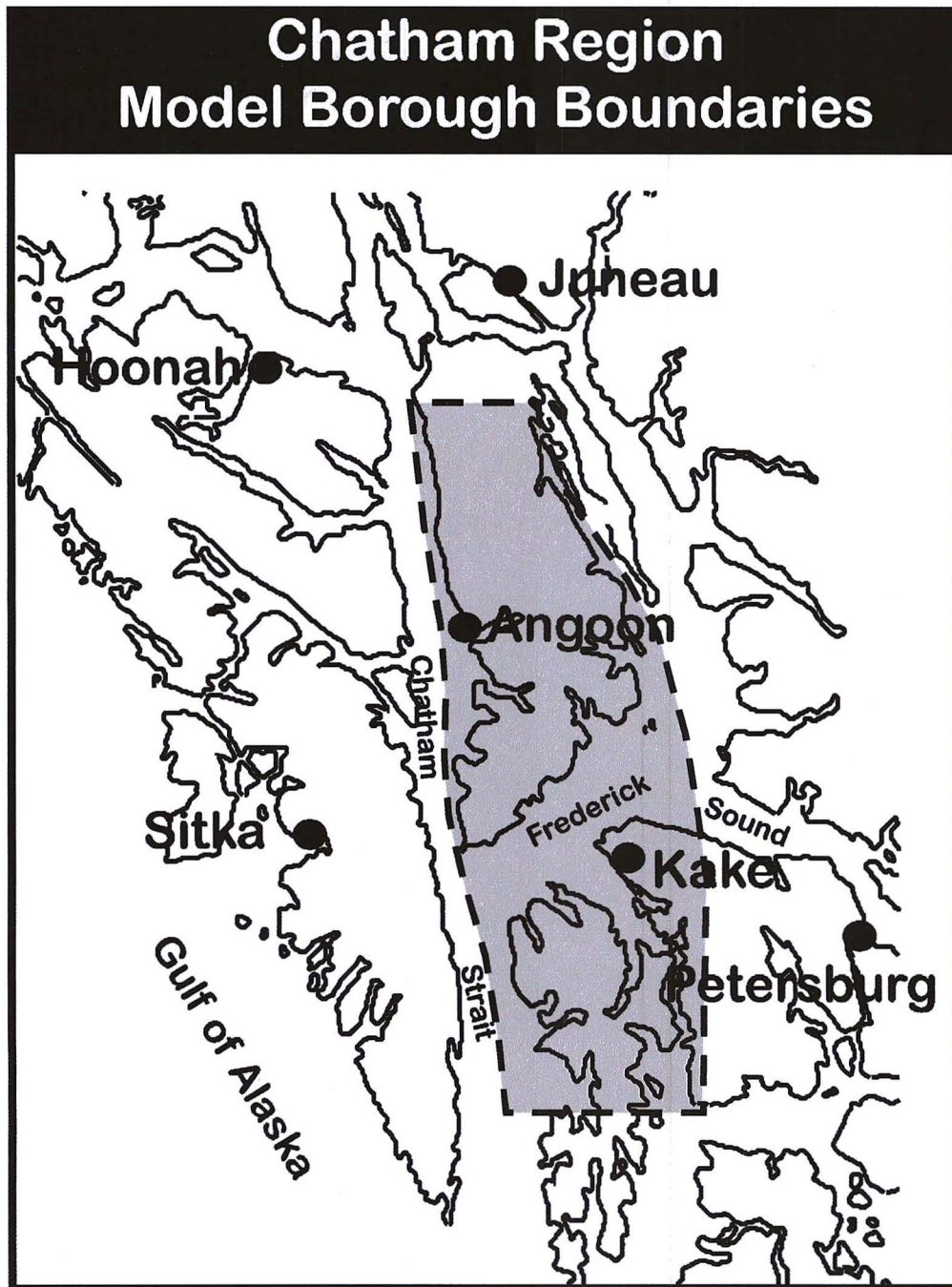


**Bristol Bay Region.** The Commission conducted public hearings on model borough boundaries for the region in Dillingham, Naknek and Togiak on November 23 & 24, 1992. Kokhanok, Pilot Point, Chignik, Levelock, Egegik, Newhalen, Nondalton and Chignik Lake participated in the November 24 Dillingham hearing 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.

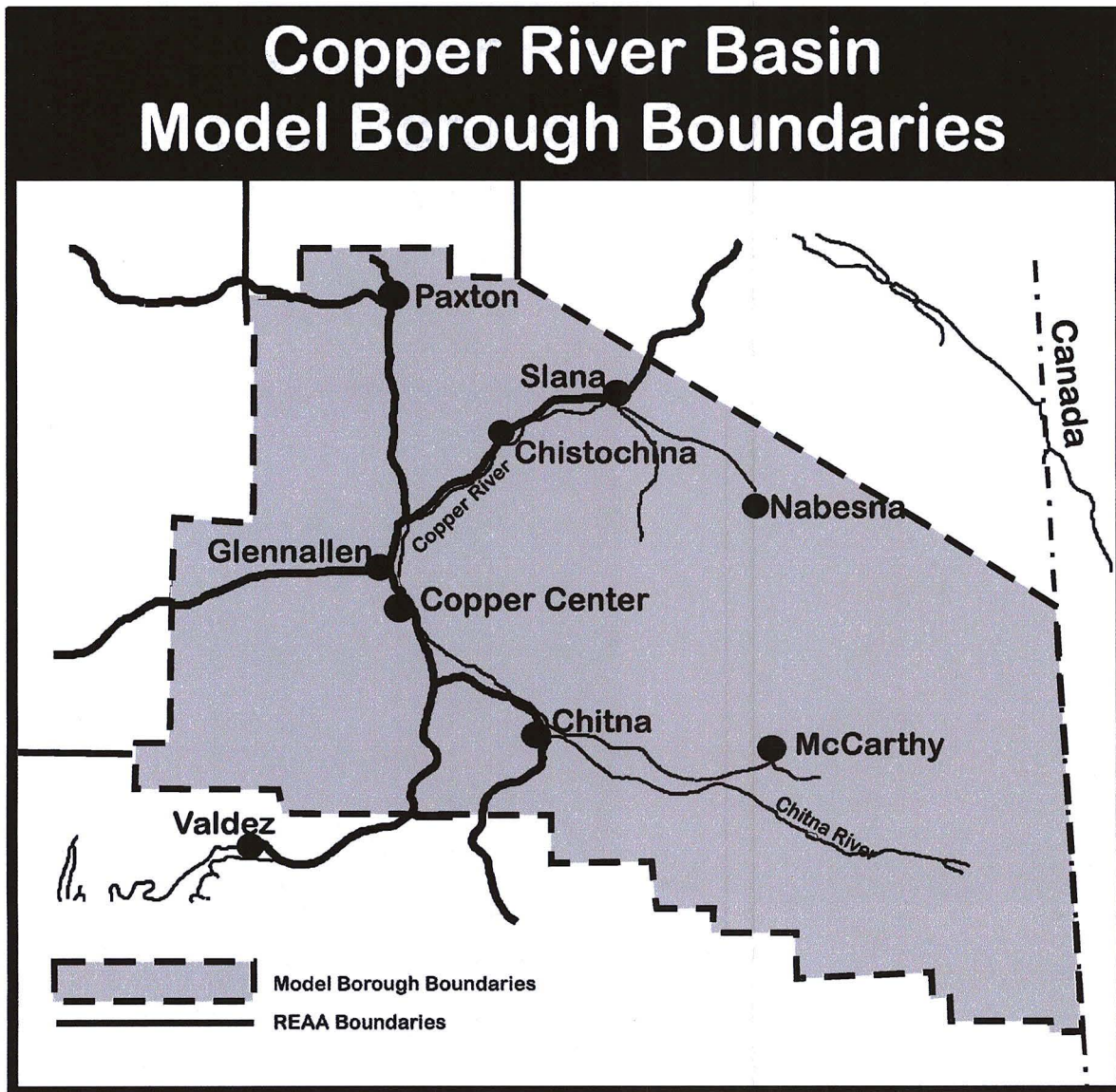
On December 4, 1992, the Commission identified model boundaries encompassing the existing Dillingham Census Area. Dillingham, Aleknagik, Clark's Point, Ekuk, Ekwok, Koliganek, Manokotak, New Stuyahok, Portage Creek, Togiak and Twin Hills are included in the model boundaries.



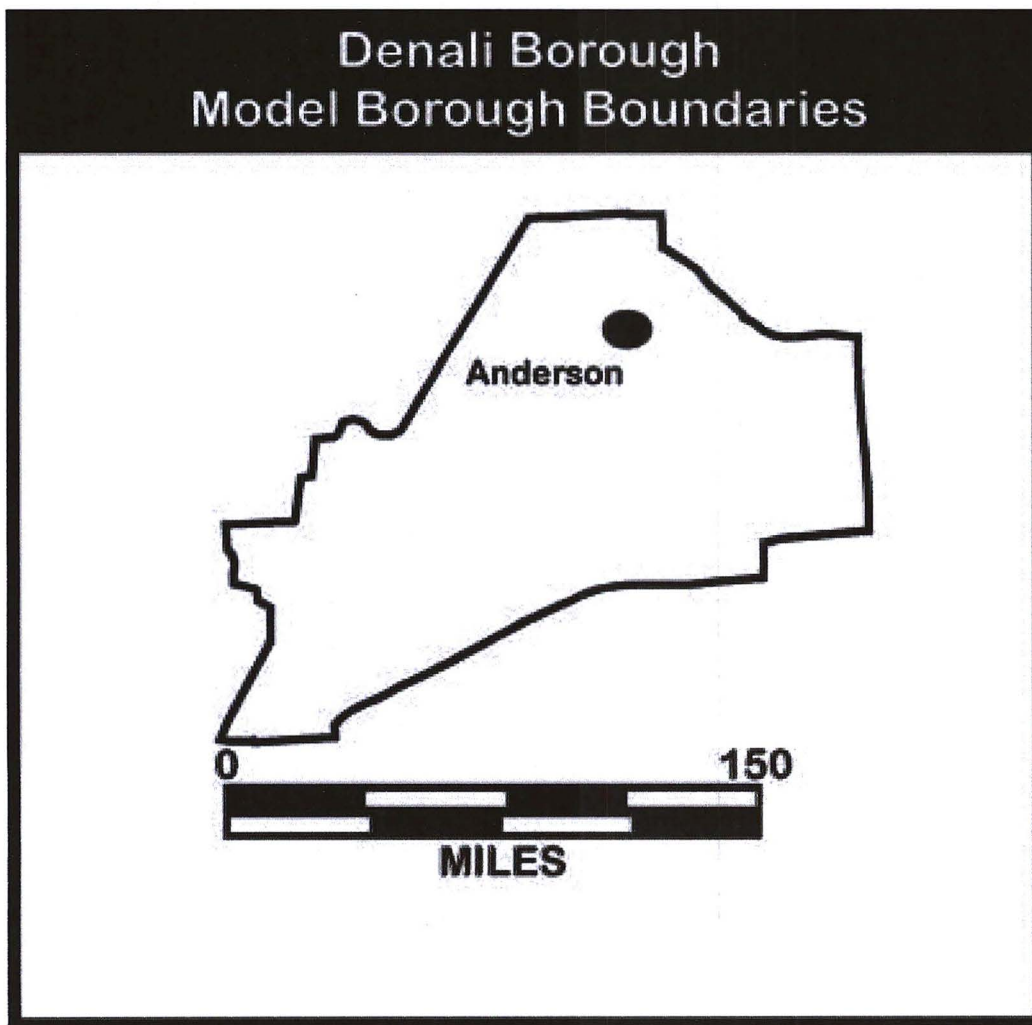
**Chatham Region.** In November 1990, the Commission conducted public hearings throughout the central portion of Southeast Alaska. Individuals in Gustavus, Haines, Skagway, Yakutat, Tenakee Springs, Pelican, Sitka, Elfin Cove, Port Alexander, Angoon, Hoonah, Kake and Cube Cove participated. On May 8,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



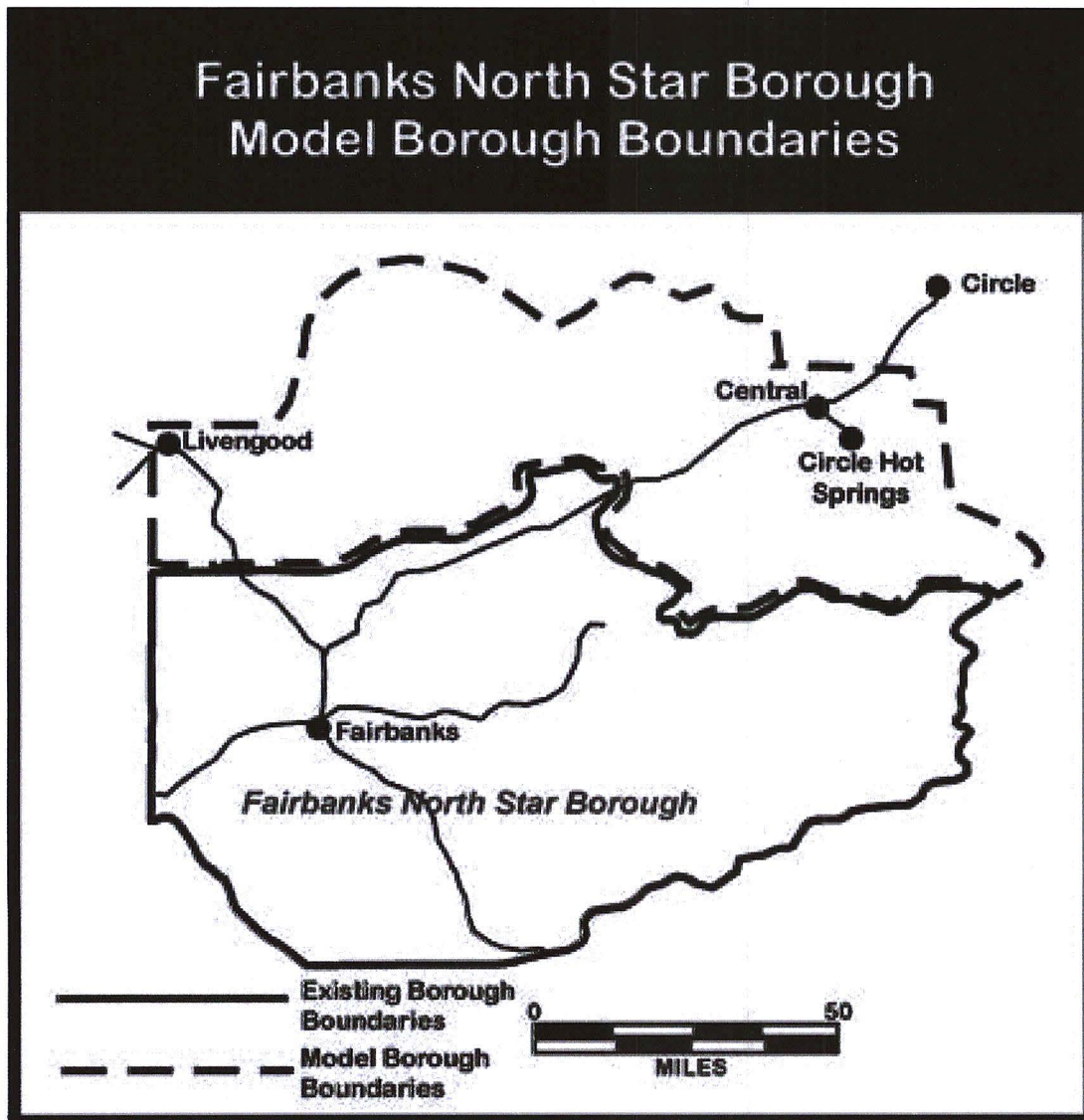
**Copper River Basin Region.** The Commission held a hearing on model boundaries in Glennallen on May 9, 1992. Additional information concerning the model boundaries for the Copper River Basin was provided to the Commission by residents of the region in June. On November 21, 1992, the Commission determined that the Copper Basin model borough boundaries should follow the boundaries of the Copper River REAA. Communities within the area include, Chistochina, Chitina, Copper Center, Gakona, Glennallen, Gulkana, Kenny Lake, McCarthy, Paxson, Slana, Tazlina and Tonsina. The area encompasses an estimated 20,649 square miles. In 1990, the area had a population of 2,638.



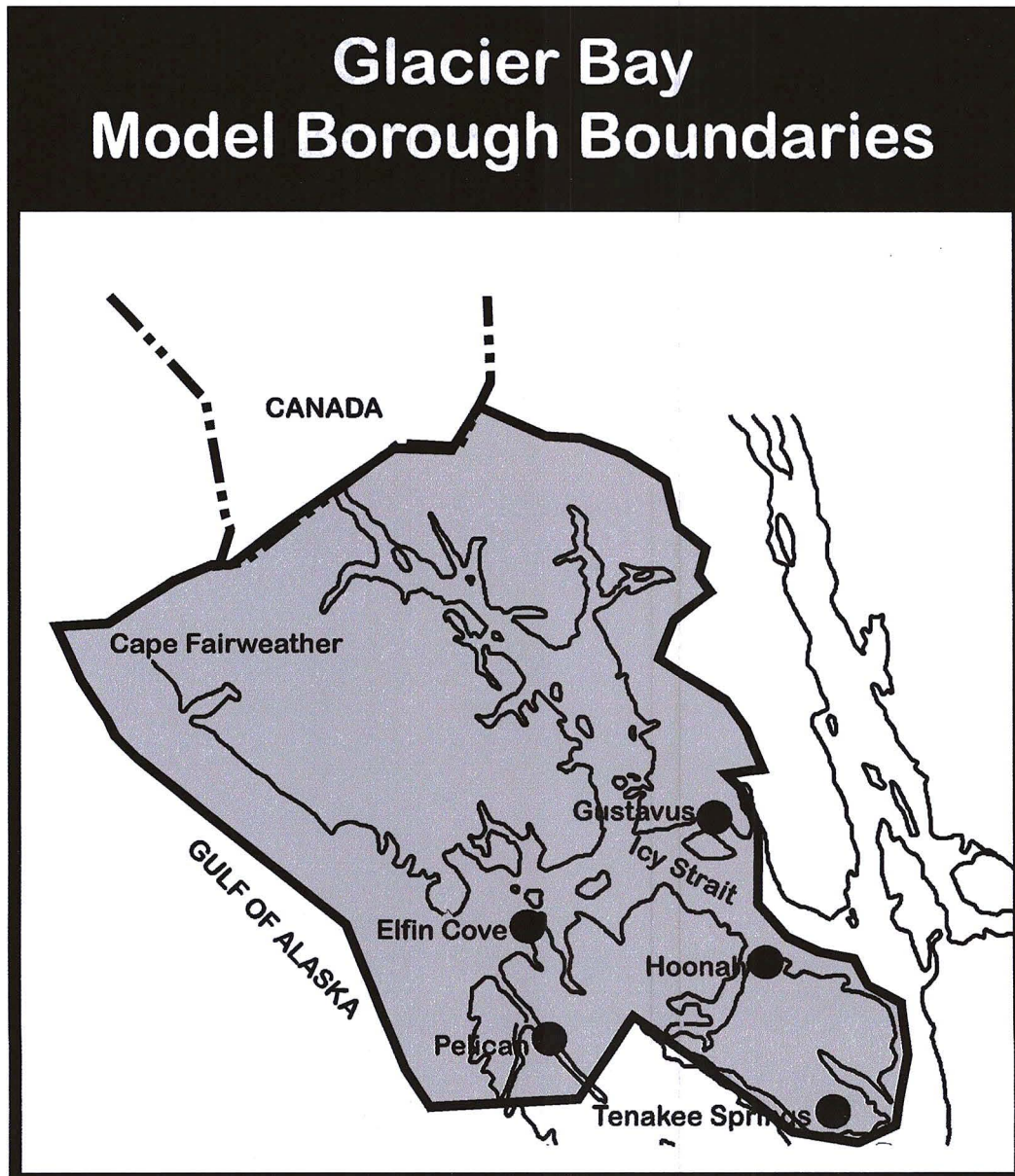
**Denali Borough.** The Commission conducted public hearings on model borough boundaries for the region in conjunction with hearings on the competing petitions for annexation of territory to the Matanuska-Susitna Borough, incorporation of the Denali Borough and incorporation of the Valleys Borough. Hearings were held in Palmer and Anderson on March 22, 1990. Three more hearings were held in McKinley Park, Fairbanks and Cantwell on March 23, 1990. Two additional hearings were held in Healy and Nenana on March 24, 1990. On April 21, 1990, the Commission held a decisional meeting on the boundaries and the petitions. The boundaries were defined to extend from the northern boundary of the Matanuska-Susitna Borough on the south and from the Delta-Greely Regional Educational Attendance area on the east. The area also takes in that portion of the Denali National Park and Preserve not located within the Matanuska-Susitna Borough. The boundaries border the Fairbanks North Star Borough on the northeast.



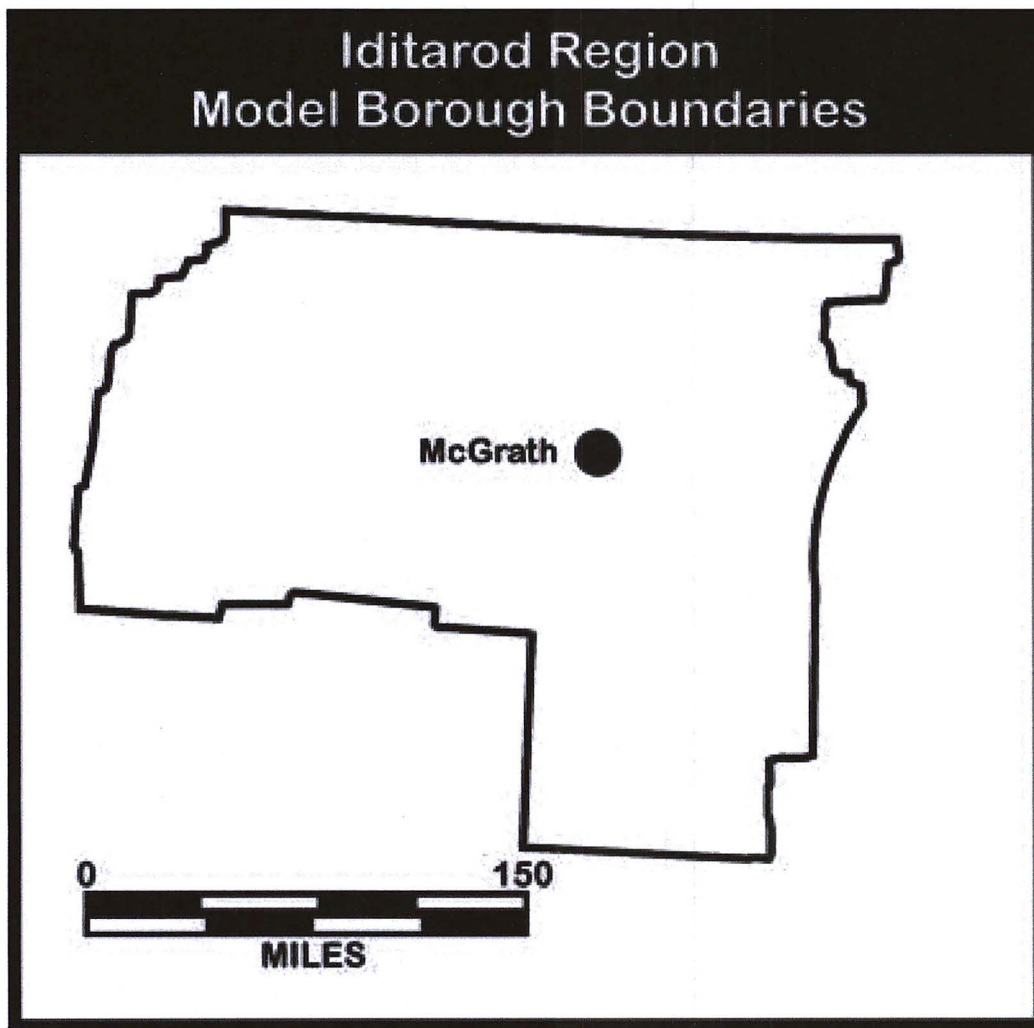
**Fairbanks North Star Borough.** The Commission conducted public hearings on model borough boundaries for the region in conjunction the petition for annexation of territory to the Fairbanks North Star Borough. Hearings were held in McGrath and Tanana, on May 18, 1990. Two additional hearings were held in Livengood and Fairbanks on May 19, 1990. Two more hearings were held in Fort Yukon and Central on May 20, 1990. On July 14, 1990, the Commission held a decisional meeting on the model boundaries and the petition. The model boundaries of the Fairbanks North Star Borough were defined to include the communities of Livengood, Central and Circle Hot Springs. The model boundaries also encompass the White Mountain National Recreation Area and the Steese National Conservation Area. The model boundaries of the Fairbanks North Star Borough encompass and estimated 4,918 square miles not presently within the corporate boundaries of the Borough.



**Glacier Bay Region.** The Commission conducted hearings on model boundaries for this region in Hoonah, Pelican and Gustavus in January 1992. On May 8, 1992,, the Commission defined model borough boundaries for the region 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. In 1990, the region had a population of 1,858.



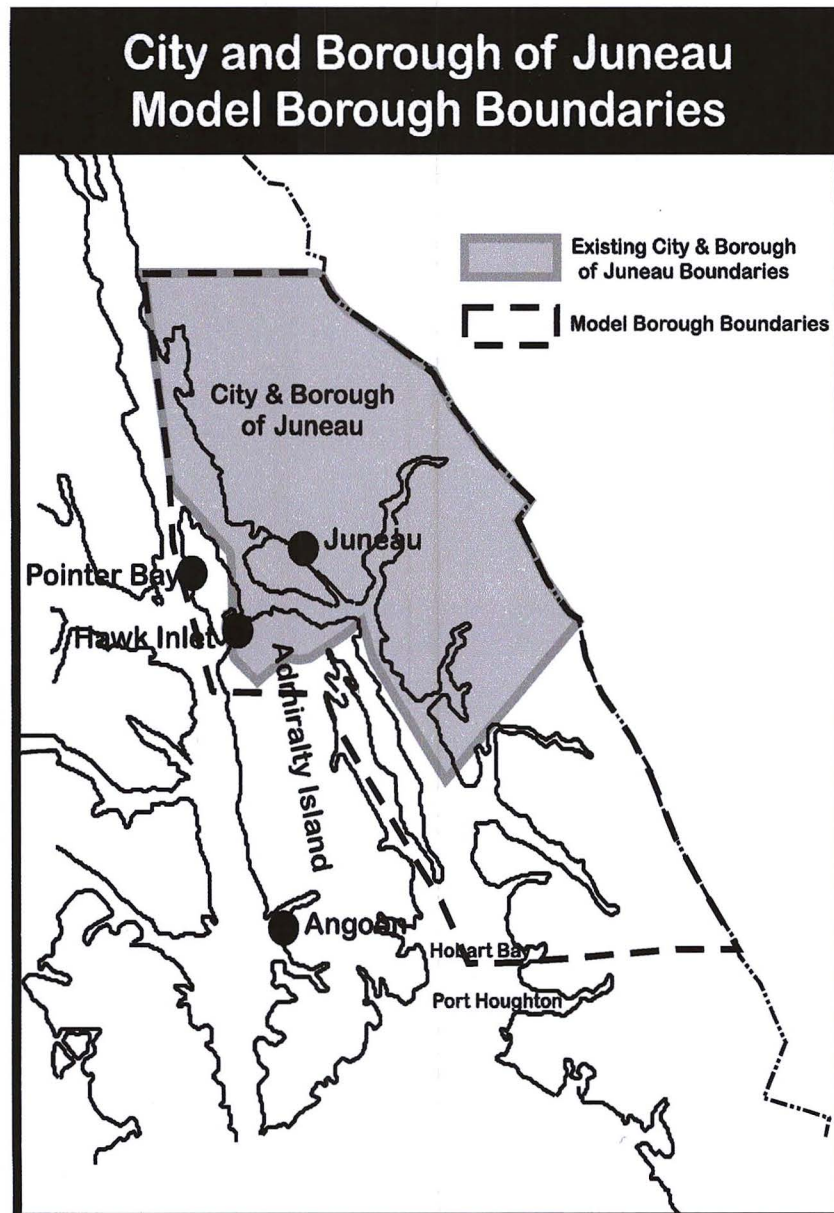
**Iditarod Region.** The Commission conducted a public hearing on model borough boundaries for the Iditarod region on May 8, 1990. The hearing was held in McGrath, with teleconference sites established in Nikolai and Shageluk. On November 10, 1990, the Commission defined the model borough boundaries for the region to follow the boundaries of the Iditarod Regional Educational Attendance Area, excluding the territory within the model boundaries of the proposed Denali Borough.



**City and Borough of Juneau.** The Commission conducted a hearing on the model boundaries for the City and Borough of Juneau in July, 1990, but delayed action on the boundaries pending testimony from residents of adjacent regions. In November of 1990, the Commission held model boundary hearings in Kake, Hoonah, Cube Cove, Angoon, Sitka, Elfin Cove, Port Alexander, Pelican, Tenakee Springs, Haines, Skagway, Yakutat and Gustavus (due to weather conditions, the hearings were conducted by teleconference.)

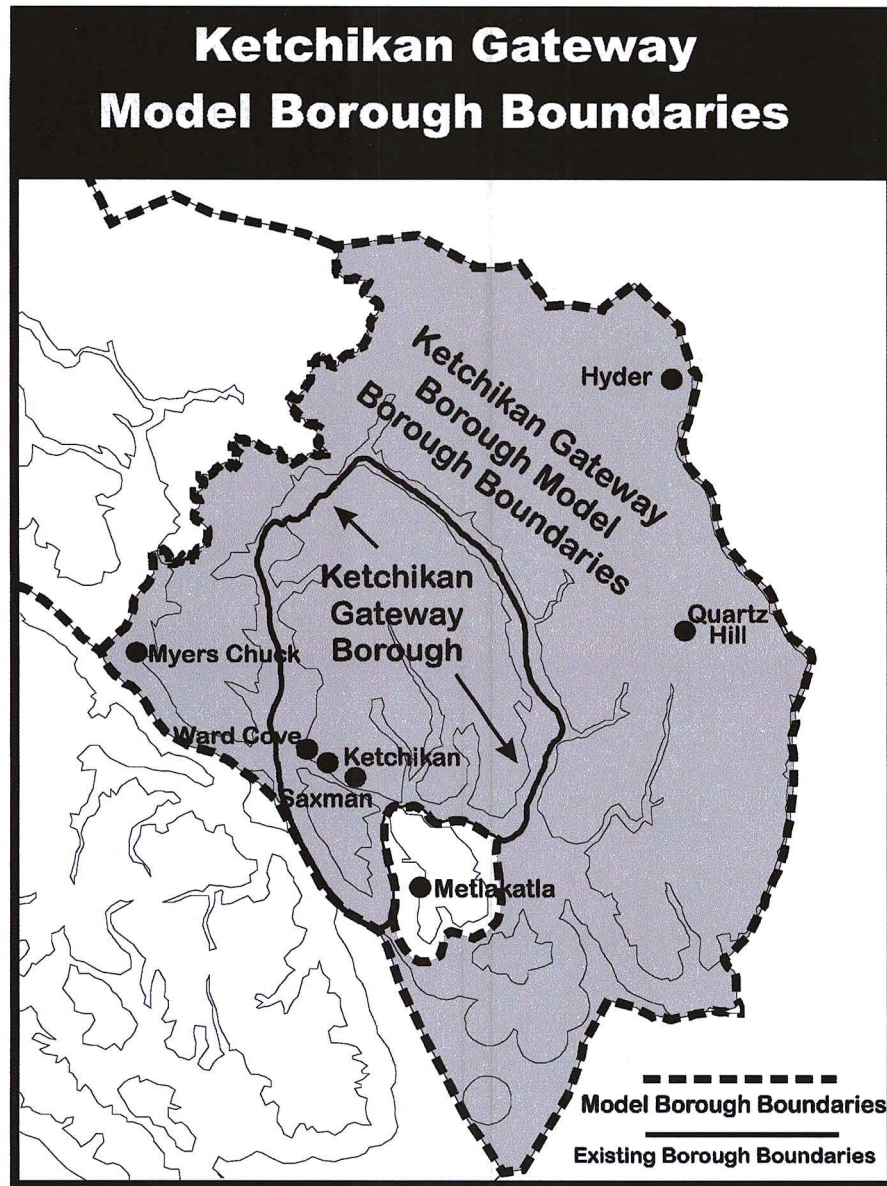
In November, 1991, the Commission defined the model boundaries for the City and Borough of Juneau to include the Mansfield Peninsula, Glass Peninsula, and Seymour Canal areas of Admiralty Island. The model boundaries extend south along Stephens Passage to Hobart Bay on the mainland. From there, the boundaries run due east to the Alaska/Canada border. The boundary continues northward along the Alaska/Canada border following the existing boundaries of the City and Borough of Juneau.

The model borough boundaries take in about 2,400 square miles of land and water outside of the current boundaries of the City and Borough of Juneau. The area defined by the model borough boundaries had a 1990 population of 26,938 residents, all but 187 of whom lived within the established corporate limits of the City and Borough of Juneau.



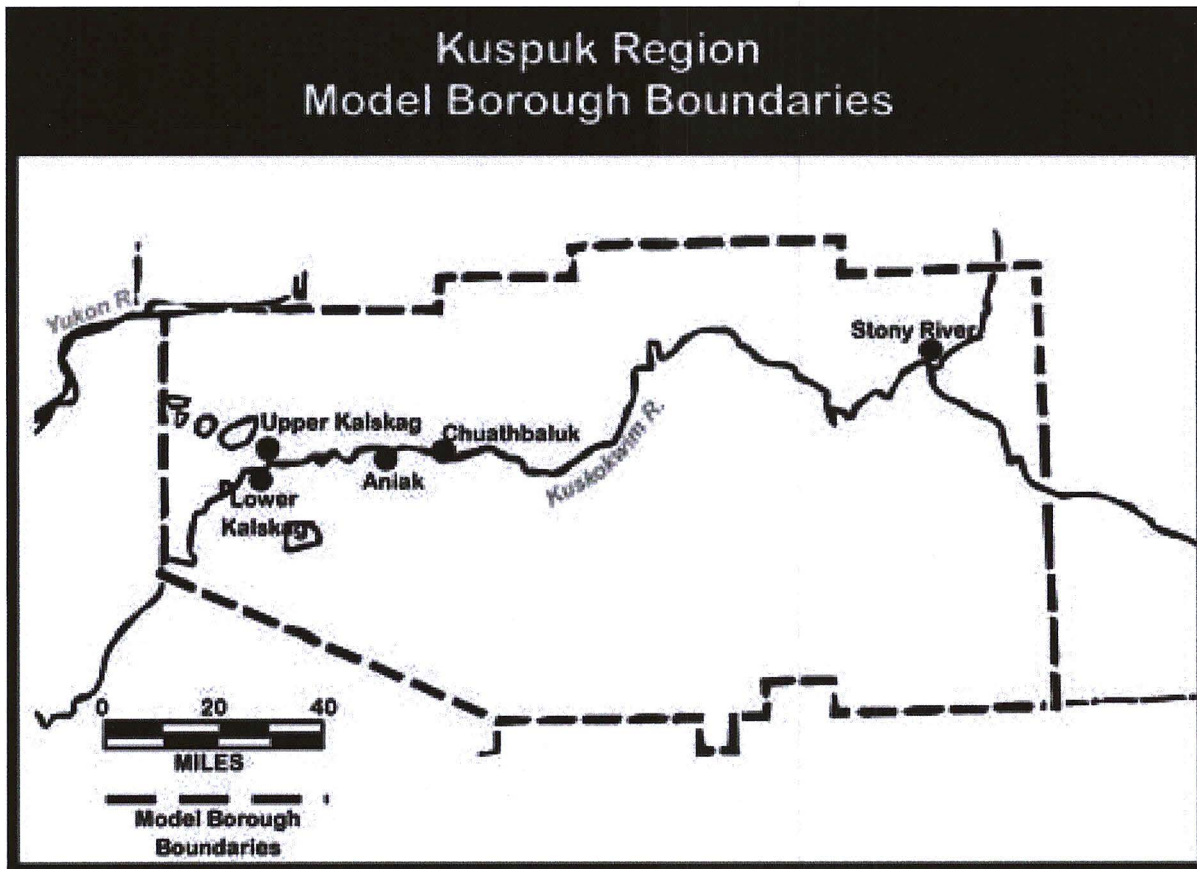
**Ketchikan Gateway Borough.** The Commission held a hearing on model boundaries for the Ketchikan region in September 1991. Residents of Meyers Chuck and Hyder participated by teleconference. Additional information concerning the model boundaries for the Ketchikan Gateway Borough was provided to the Commission in November of 1991.

The model borough boundaries defined by the Commission for the Ketchikan area extend from the State's southern boundary along Clarence Strait to Ernest Sound. There, the boundary turns east, following the southern boundary of the Wrangell Ranger District and the northern boundary of the Misty Fjords National Monument to the Alaska/Canada border. From there, the model boundary line turns south along the Alaska/Canada border to the point of beginning. These model borough boundaries exclude the Annette Island Indian Reservation.

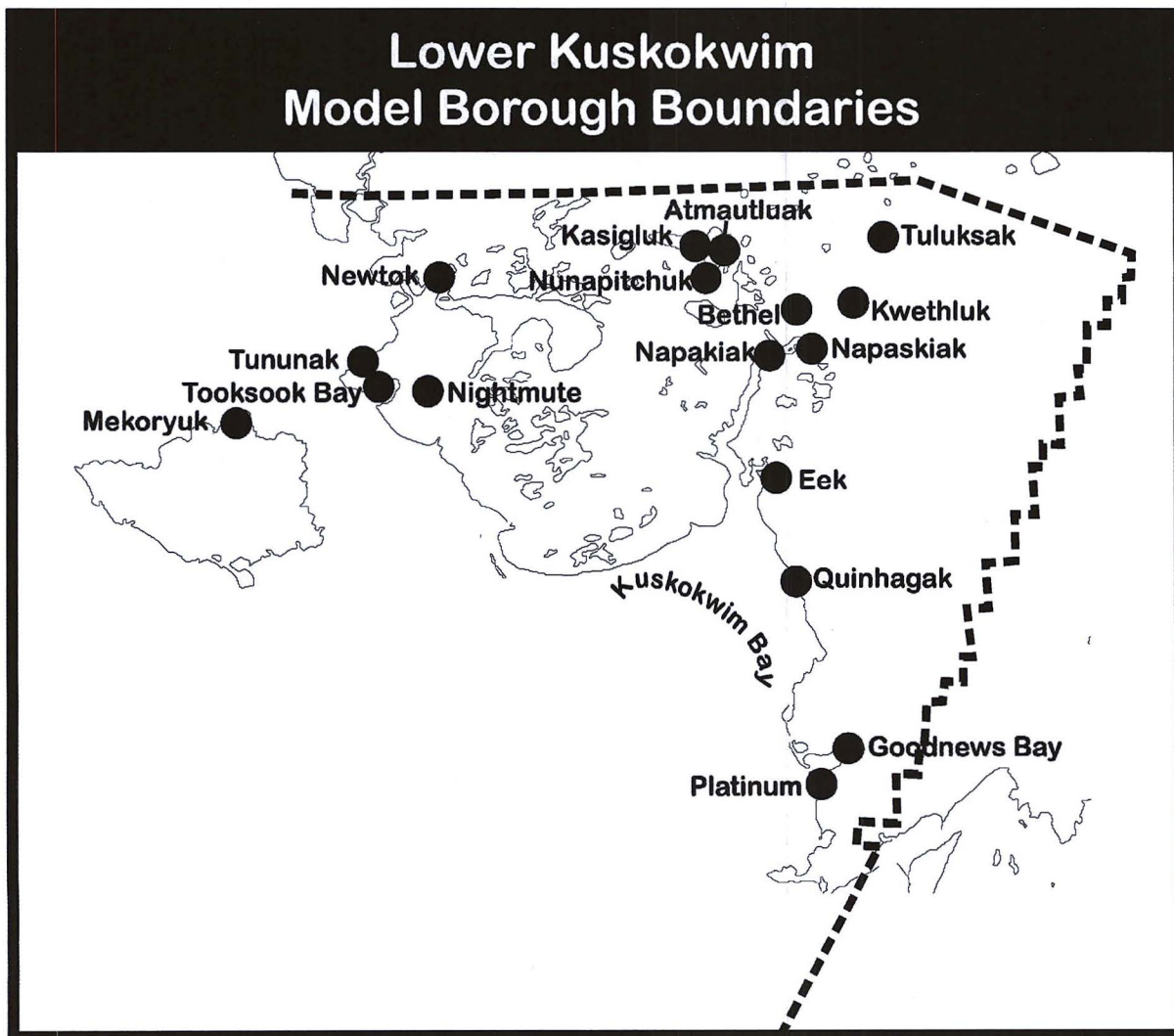


The area includes an estimated 7,300 square miles of land and water. Of that, approximately 1,744 square miles are already within the current corporate boundaries of the Ketchikan Gateway Borough. According to the 1990 Federal Census, the area defined by the model borough boundaries is inhabited by 13,985 people, all but 157 of whom live within the current borough boundaries.

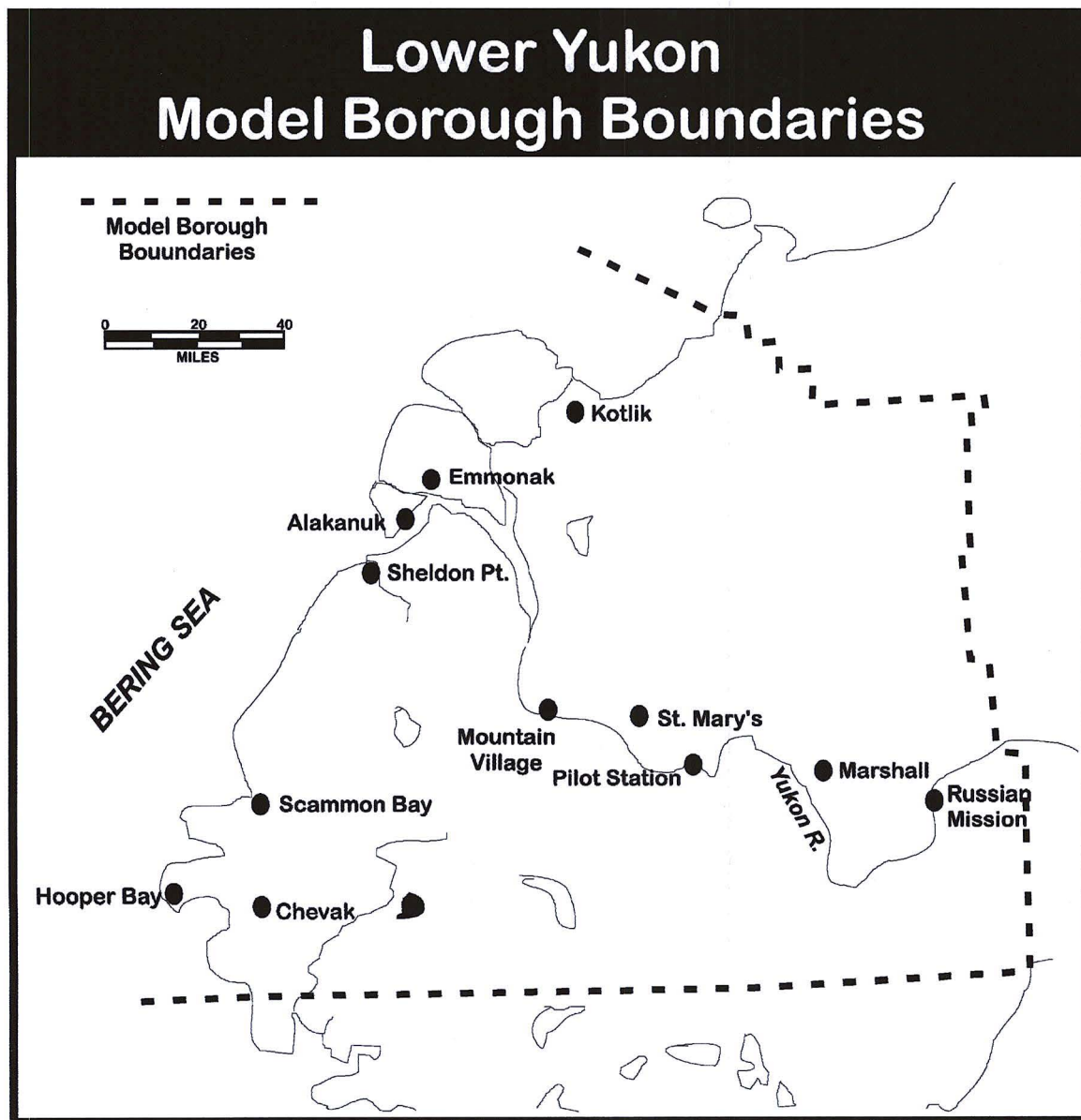
**Kuspuk Region.** The Commission conducted a public hearing on model borough boundaries for the Kuspuk region in Aniak on October 23, 1992. On November 21, 1992, the Local Boundary Commission set the Kuspuk region model boundaries to conform to those of the Kuspuk Regional Educational Attendance Area. The 1990 population for the region was 1,490 residents. Communities in the region consist of Aniak, Chuathbaluk, Crooked Creek, Sleetmute, Stony River, Upper Kalskag and Lower Kalskag.



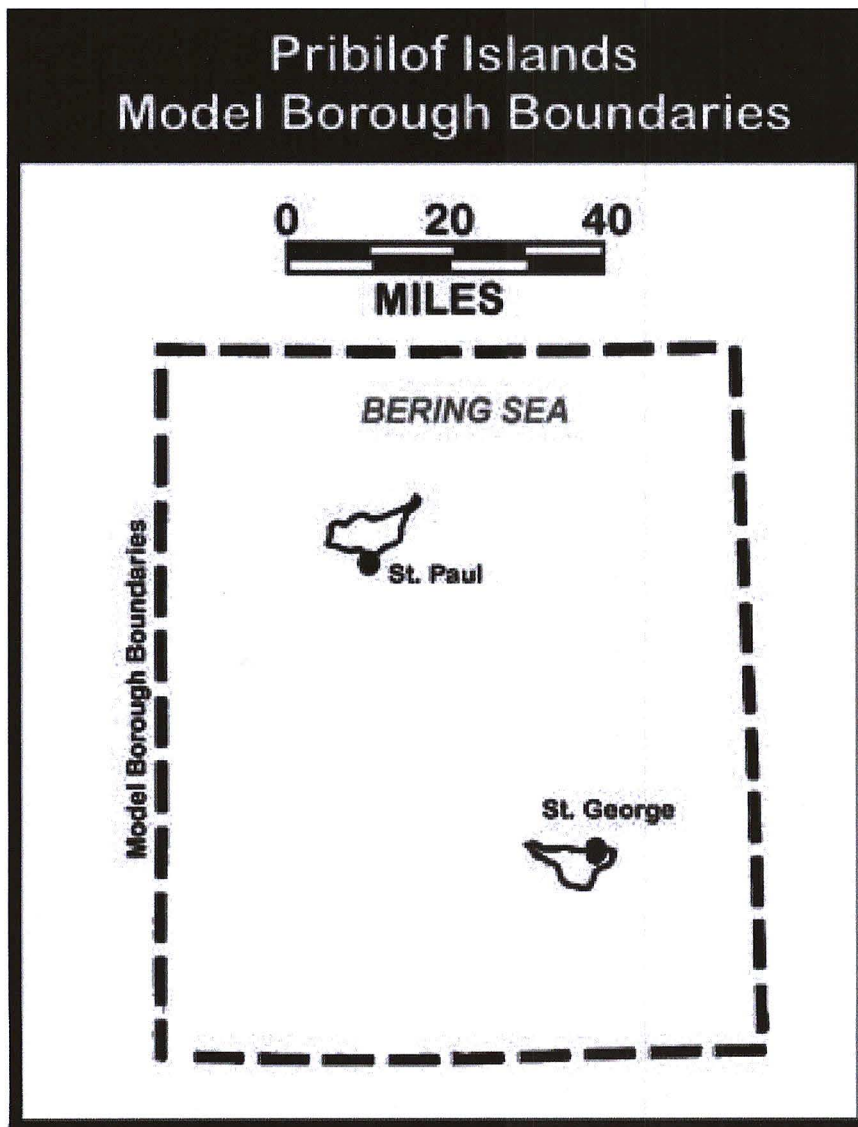
**Lower Kuskokwim Region.** The Commission held model borough boundary hearings concerning the Lower Kuskokwim region in Bethel on October 24, 1992. On November 21, 1992, the Local Boundary Commission set model borough boundaries for the region to conform to the boundaries of the Lower Kuskokwim Regional Educational Attendance Area (including the smaller Yupiit Regional Educational Attendance Area). The 1990 population of the region was 12,125. The region encompasses 25 communities including Akiachak, Akiak, Atmautluak, Bethel, Cheforak, Eek, Goodnews Bay, Kasigluk, Kipnuk, Kongiganak, Kwethluk, Kwigillingok, Mekoryuk, Napakiak, Napaskiak, Newtok, Nightmute, Nunapitchuk, Oscarville, Platinum, Quinhagak, Toksook Bay, Tuluksak, Tuntutuliak, and Tununak.



**Lower Yukon Region.** The Commission held model borough boundary hearings for the Lower Yukon region in St. Mary's on October 23, 1992. On November 21, 1992, the Commission set Lower Yukon model boundaries to conform to the Lower Yukon Regional Educational Attendance Area. The model borough boundaries include the smaller Kashunamiut Regional Educational Attendance Area and the St. Mary's City School District. The area also includes the communities of Alakanuk, Chevak, Emmonak, Hooper Bay, Kotlik, Marshall, Mountain Village, Pilot Station, Russian Mission, Scammon Bay, Sheldon Point and Pitka's Point. In 1990, the area's population totaled approximately 5,791.

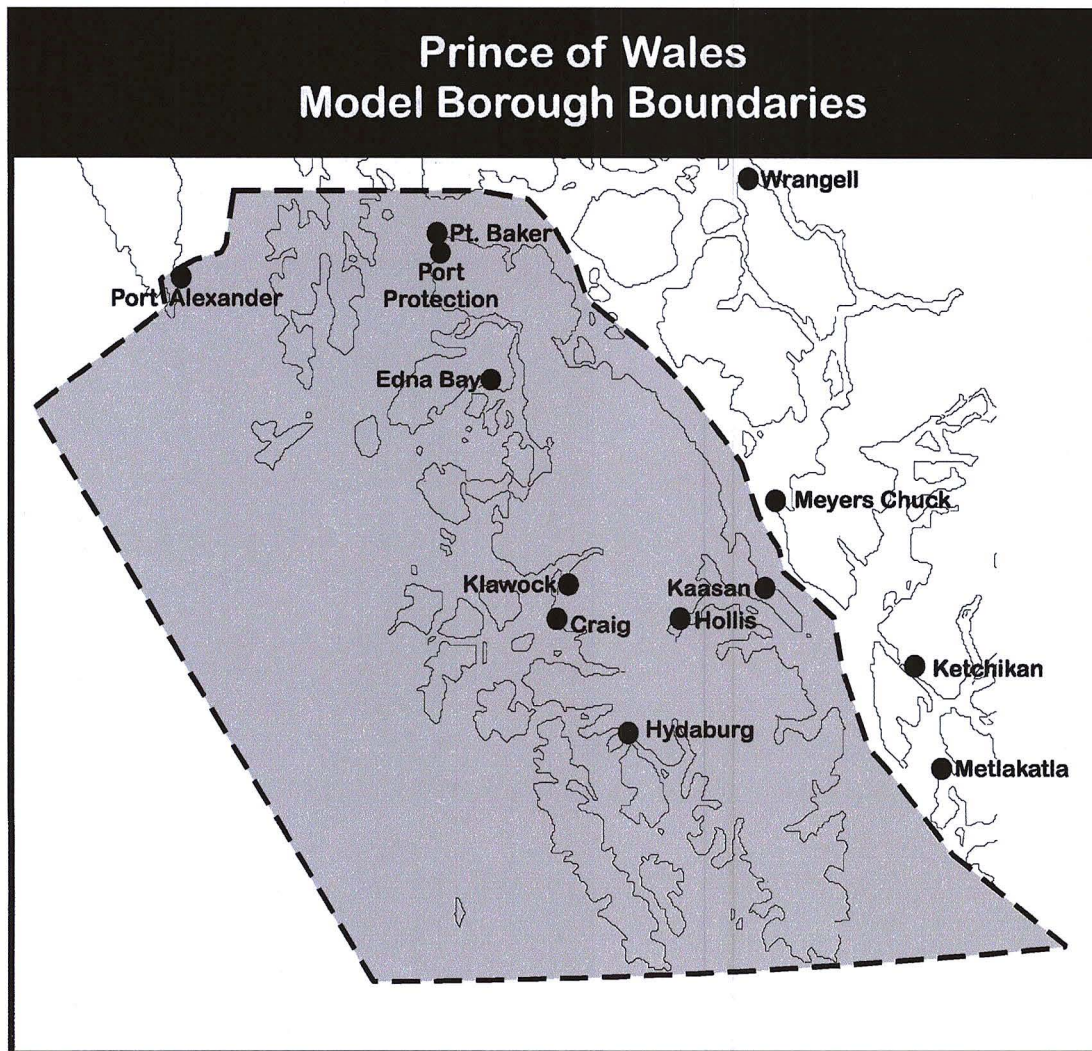


**Pribilof Region.** The Local Boundary Commission conducted a hearing on model borough boundaries for the Pribilof region on October 20, 1992. Testimony was received by teleconference from St. Paul and St. George. The Commission set model borough boundaries for the area on November 21, 1992. Those boundaries conform to the Pribilof Islands Regional Educational Attendance Area which encompass St. Paul and St. George. That area had a 1990 population of 901.

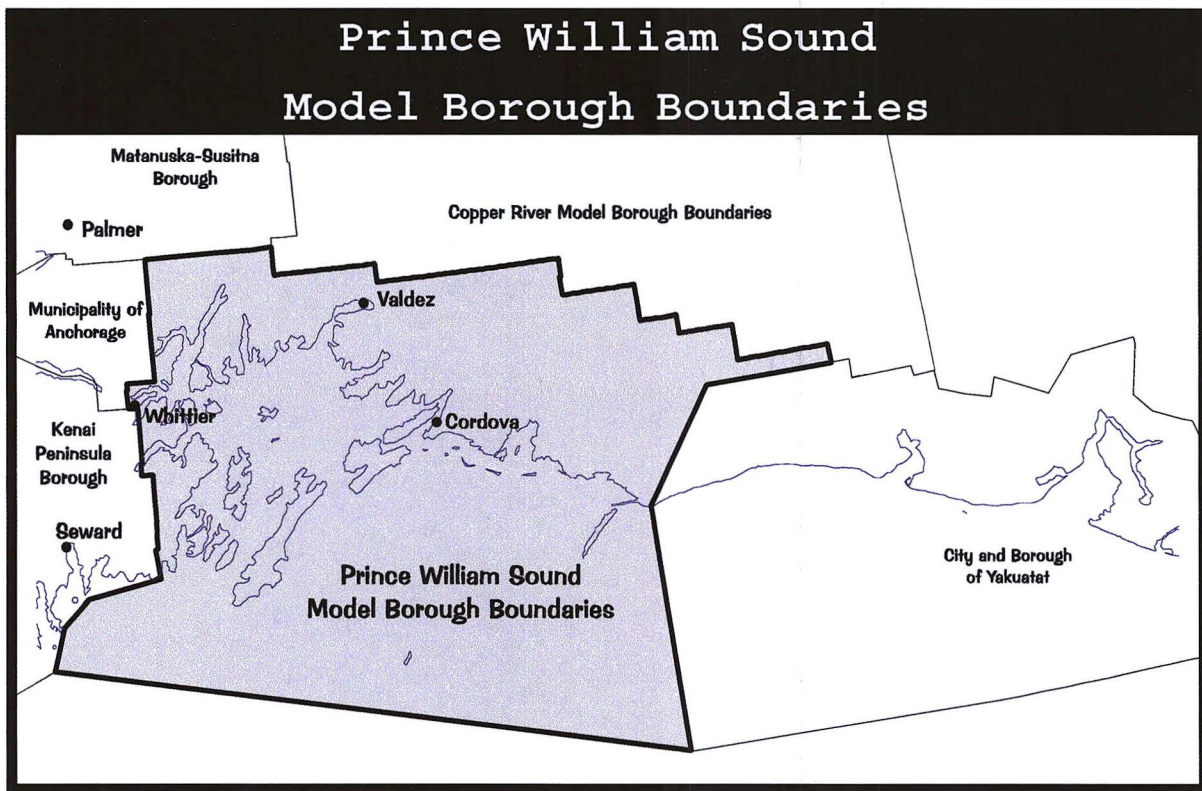


**Prince of Wales Island Region.** The Commission held its hearing on model borough boundaries for this region in Klawock in September 1991. Additional comments concerning model boundaries for this region were provided to the Commission in November of 1991.

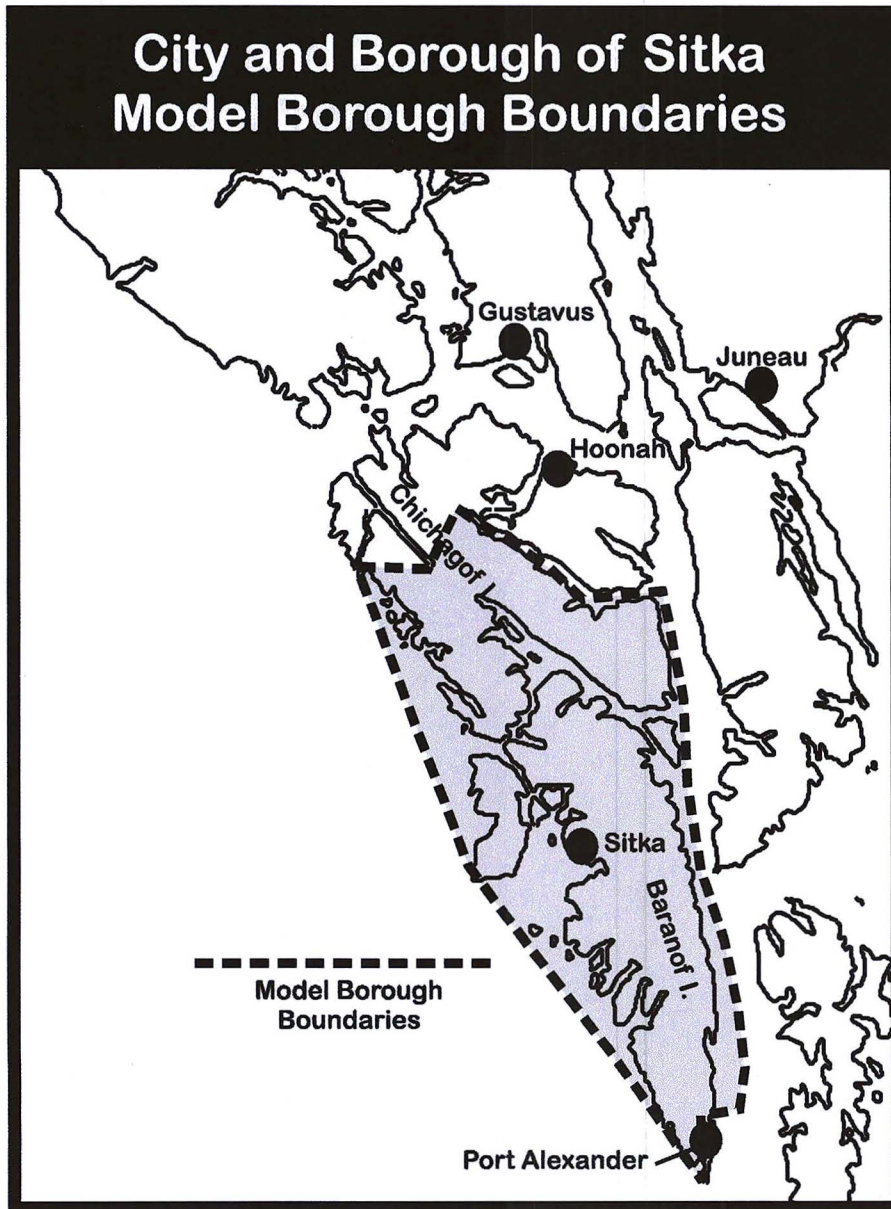
The Commission adopted model boundaries for this region to extend from the southern boundary of the State of Alaska along Clarence Strait and Sumner Strait to an area north of Point Baker (following the Wrangell Ranger District boundary). From there the boundary extends due west across Kuiu Island to the middle of Chatham Strait where it turns south, following the State boundary back to the point of beginning. These model boundaries encompass an estimated 8,200 square miles of land and water. This area is all part of the Southeast Island Regional Educational Attendance Area, and has 4,650+ residents.



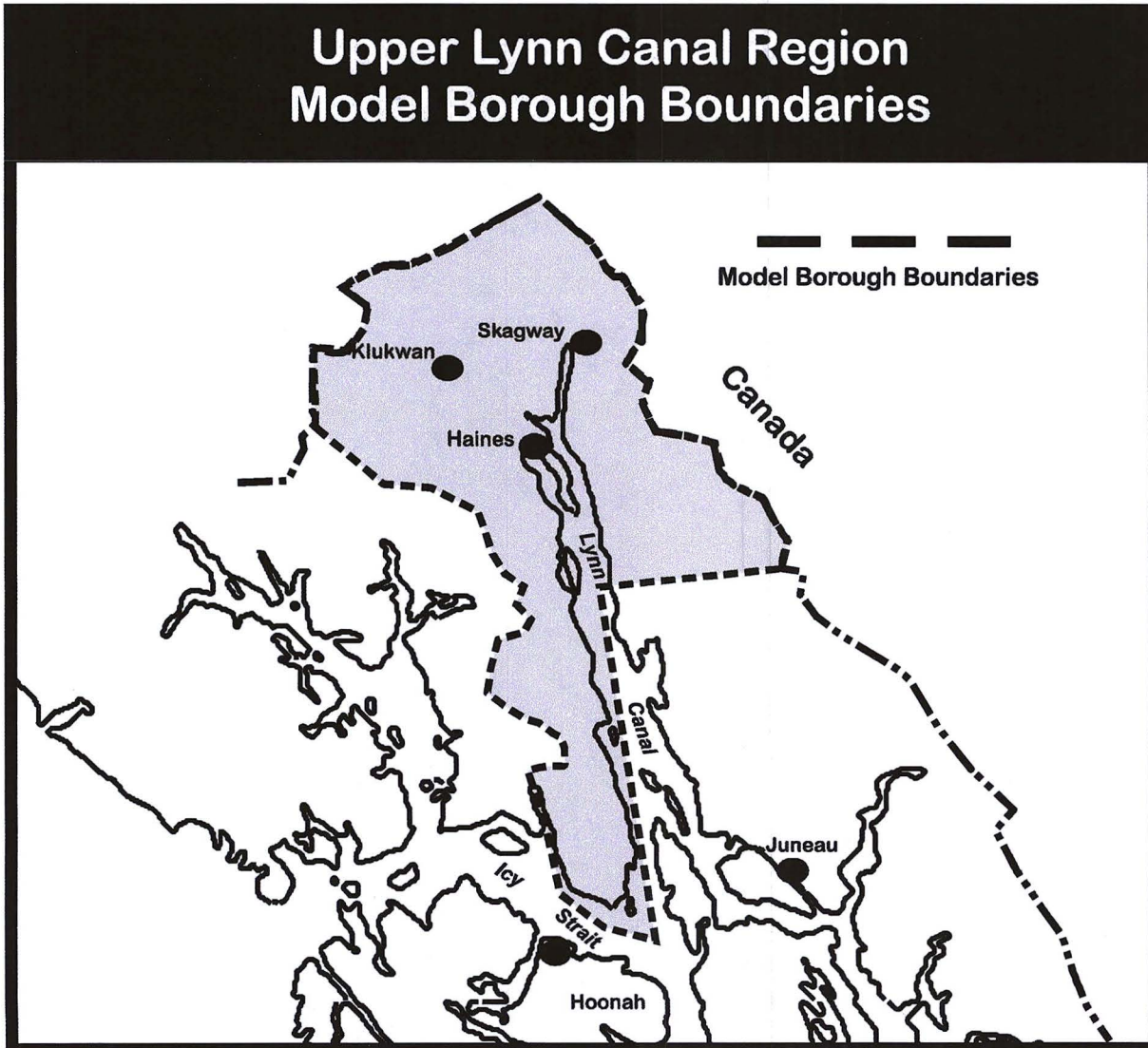
**Prince William Sound Region.** The Commission conducted a public hearing on model borough boundaries for the Prince William Sound region in January 1992. On May 8, 1992, the Commission set model boundaries for the area to conform to the Chugach REAA, including Cordova City School District and the Valdez City School District. The region also includes the City of Whittier and the unincorporated communities of Chenega and Tatitlek. In 1990, the area had a population of 7,189. On March 8, 1997, an estimated 2,878 square miles of land and 8,492 square miles of tide-lands and submerged lands within the original Prince William Sound model borough boundaries were annexed to the City and Borough of Yakutat.



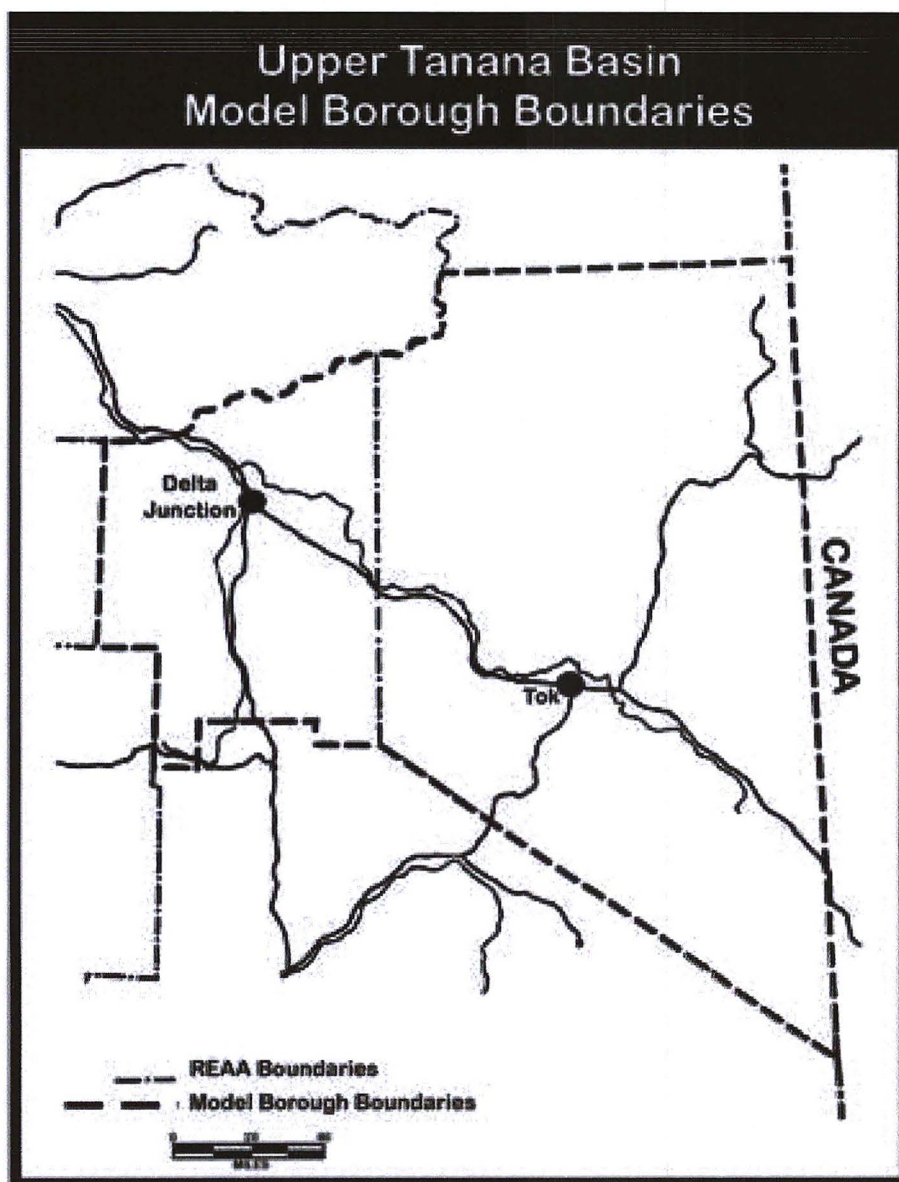
**City and Borough of Sitka.** The Commission conducted public hearings regarding model borough boundaries for the City and Borough of Sitka by teleconference in November 1990. On May 8, 1992, the Commission set model boundaries for the City and Borough of Sitka identical with its existing boundaries. That area encompasses an estimated 4,849 square miles. In 1990, the area had a population of 8,588.



**Upper Lynn Canal - Haines Borough Region.** On May 8, 1992, the Commission set model borough boundaries for the upper Lynn Canal area. The model boundaries were defined to encompass the area within the present Haines Borough as well as the adjacent City of Skagway and the village of Klukwan. Klukwan is presently an enclave within the Haines Borough. In 1990, the area had a population of 2,938..

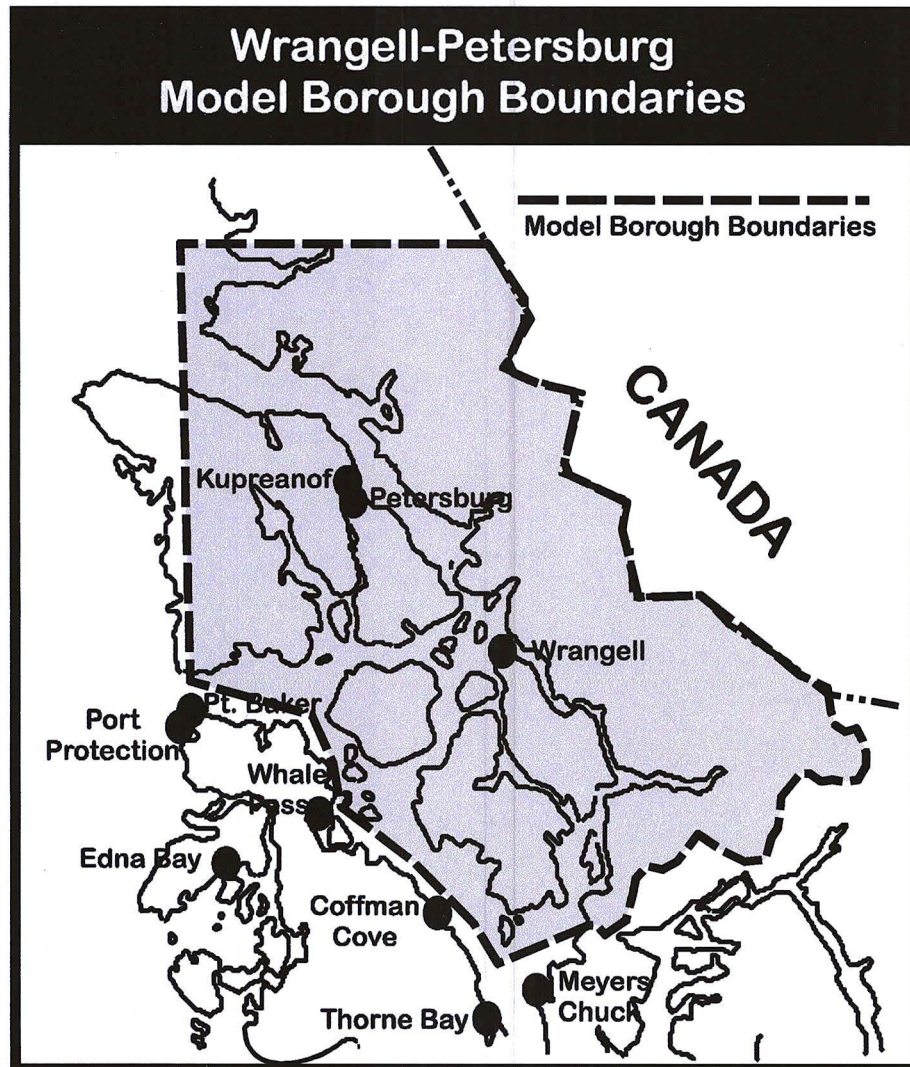


**Upper Tanana Basin Region.** The Commission conducted hearings on model borough boundaries for the region in Delta Junction on May 8, 1992 and in Tok on May 9 and June 6, 1992. The Commission set model boundaries for the area on November 21, 1992. The Upper Tanana Basin model boundaries were defined to encompass both the Delta Greely and Alaska Gateway REAA areas. In 1990, the area had a population of 6,021. The model borough boundaries encompass an estimated 26,235 square miles. 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.

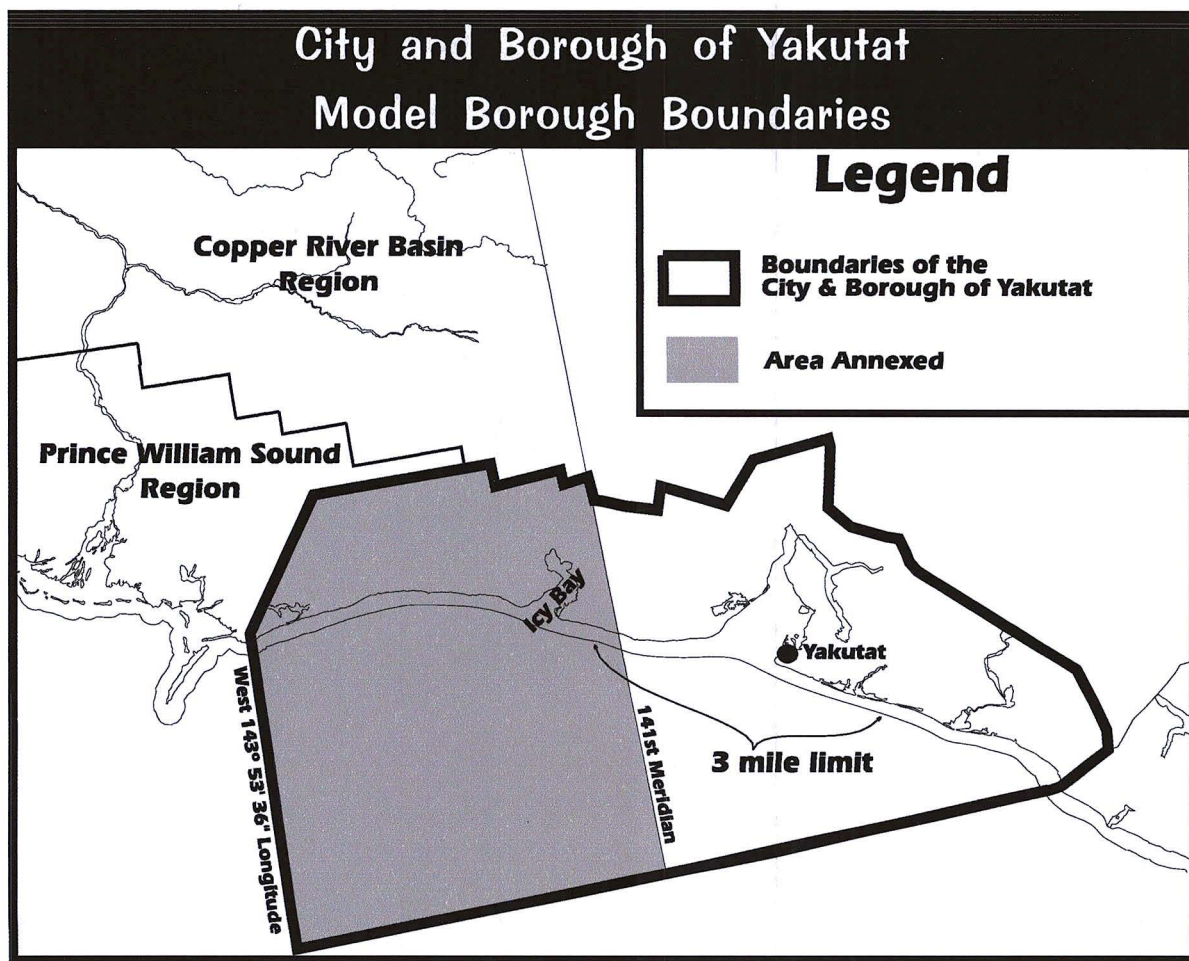


**Wrangell/Petersburg Region.** The Commission conducted hearings on model boundaries for the region in Wrangell and Petersburg in September 1991. After receiving additional comments in November, the Commission defined model borough boundaries for this region to follow the boundary of the Wrangell Ranger District along the Misty Fjords National Monument to Ernest Sound and along Clarence Strait and Sumner Strait to an area north of the community of Point Baker. From there, the model boundary runs due north to Hobart Bay then due east to the Alaska/Canada border. The boundary then turns south following the border to the point of beginning.

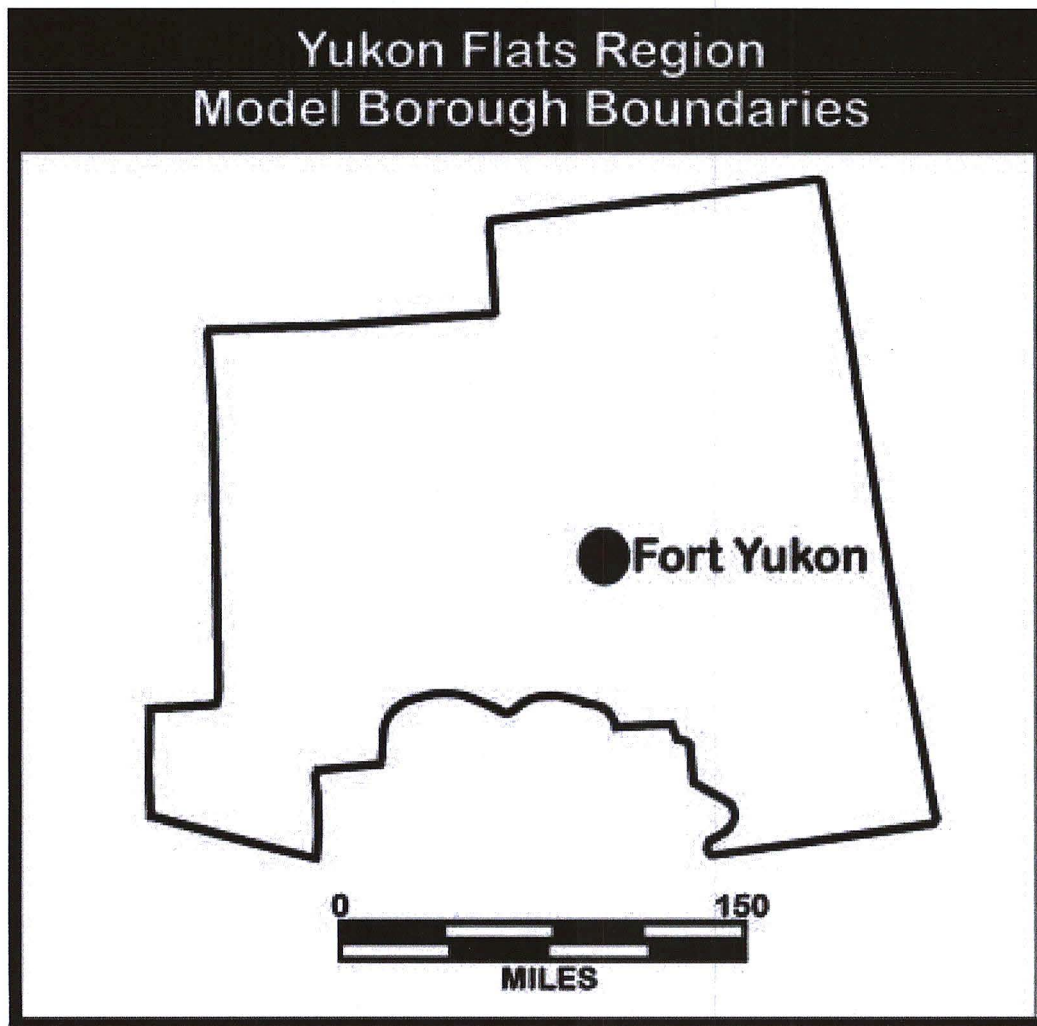
These model boundaries include an area of approximately 7,200 square miles of land and water. The 1990 population of the area was estimated to be approximately 6,000. The model boundaries encompass two complete school districts (Petersburg and Wrangell) and portions of two others (Southeast Island REAA and Chatham REAA).



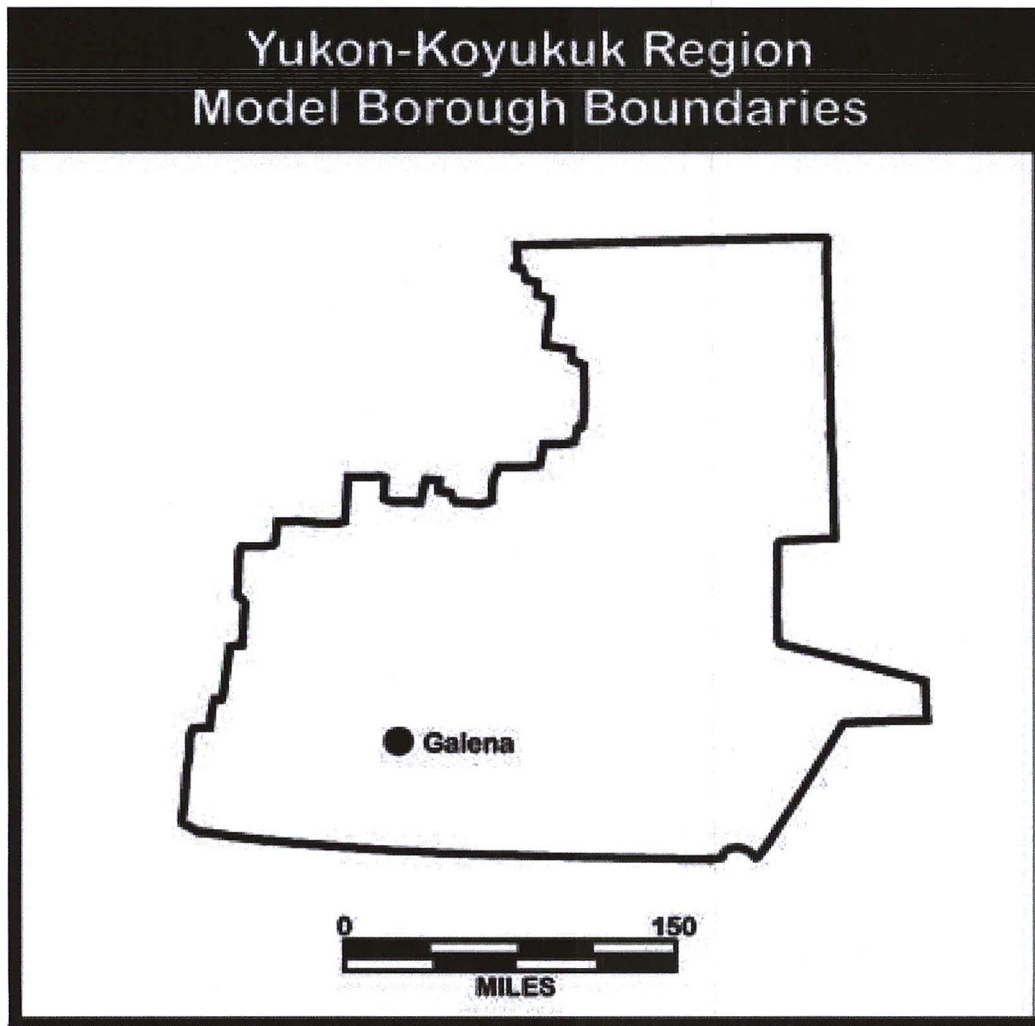
**Yakutat Borough.** The Commission set model borough boundaries for the Yakutat region on May 8, 1992. The boundaries are identical to those approved by the Commission for incorporation of the City and Borough of Yakutat. The model boundaries encompass approximately 4,224 square miles with boundaries extending from the 141st Meridian to Cape Fairweather. In 1990, the area had a population of approximately 705. On March 8, 1997, an estimated 2,878 square miles of land and 8,492 square miles of tidelands and submerged lands within the adjoining Prince William Sound model borough boundaries were annexed to the City and Borough of Yakutat.



**Yukon Flats Region.** The Commission conducted a public hearing on model borough boundaries for the Yukon Flats region on May 20, 1990. The hearing was held in Fort Yukon, with teleconference sites established in Rampart, Birch Creek, Beaver, Arctic Village, Venetie and Stevens Village. On November 10, 1990, the Commission defined the model borough boundaries for the region to follow the boundaries of the Yukon Flats Regional Educational Attendance Area with the exclusion of the territory in the model boundaries of the Fairbanks North Star Borough.



**Yukon Koyukuk Region.** The Commission conducted a public hearing on model borough boundaries for the Yukon-Koyukuk region on May 18, 1990. The hearing was held in Tanana, with teleconference sites established in Nenana, Ruby, Galena, Nulato, Manley Hot Springs, Kaltag, Hughes, Allakaket and Bettles. On November 10, 1990, the Commission defined the model borough boundaries for the region to follow the boundaries of the Yukon-Koyukuk Regional Educational Attendance Area, excluding the area within the model boundaries of the proposed Denali Borough.



## APPENDIX

The following lists certain of the reasons why some believe that the provision of Article X, Section 3 of Alaska's Constitution requiring each borough to embrace an area and population with common interests to the maximum degree possible, applies to both organized and unorganized boroughs.

A direct reading of Article X, Section 3 is unambiguous in its application to unorganized boroughs. The provision states in relevant part, "The entire State shall be divided into boroughs, organized or **unorganized**. **They** shall be established in a manner and according to standards provided by law. . . **Each** borough shall embrace an area and population with common interests to the maximum degree possible. . ."

The Public Administration Service (PAS) expressed the view that unorganized boroughs had to conform to the borough boundary standards.<sup>3</sup> On page 52 of its Local Government Under the Alaska Constitution (January 1959) the PAS notes that "Returning then, to the question of the proper size and number of the **initial unorganized boroughs**, it would seem desirable to begin with a small number of very large boroughs. One possibility would be to begin with only four, which might correspond precisely or substantially to the four major senate districts. Since these districts were drawn primarily on the basis of the way in which the State is divided into **natural 'socio-economic' areas, with drainage and other geographic factors such as mountain barriers** being considered in setting the boundary lines, this division of the State might well provide a logical basis for the differential treatment of local affairs which, as already indicated, the borough system permits.

<sup>3</sup> The PAS, a non-profit organization, was selected by the Alaska Statehood Committee to provide research and consulting services in conjunction with the efforts to develop Alaska's constitution. (See Alaska's Constitutional Convention, Victor Fisher, pages 18 - 21.) The PAS also provided consulting services to the First Alaska State Legislature in the implementation of Alaska's constitution.

*If experience showed the need for further differentiation, the large boroughs could be broken down into somewhat smaller ones. It is important to remember that it is always easier to subdivide a political area than it is to combine areas previously subdivided.*" (emphasis added).

The Executive Director of the Alaska Legislative Council held those same views. In a December 1, 1959 paper entitled Local Government and the State Constitution - Constitutional Intent, the John C. Doyle wrote that, "Under the terms of the proposed article, all of Alaska would be subdivided into boroughs. Each would cover a geographic area with common economic, social, and political interests. Boundaries are to be established by the state. . . . Three classes of boroughs might be sufficient, but the legislature is not limited to three. . . . The unorganized borough would be the third class borough. . ."<sup>4</sup>

Vic Fischer states on page 119 of Alaska's Constitutional Convention (University of Alaska Press 1975) that one of the initial principles set forth by the Convention's Committee on Local Government was that "Provision should be made for subdividing all Alaska into local units

<sup>4</sup> The paper was submitted to Representative Peter J. Kalamarides, Chairman of the Alaska Legislative Council with the following statement, "Attached hereto you will find a report on the local government article of the State Constitution. The report is the one which was submitted by the Committee on Local Government to the Constitutional Convention (1955-56), but it has been revised to reflect the amendments and thinking of the Convention when the proposal was discussed and finally approved on the floor. The Committee's report and comments, and the transcript of the Convention's proceedings were used in preparing this revised report. . ." At the time the report was submitted, two of the ten members of the Alaska Legislative Council had been delegates to the Constitutional Convention. These were Senator Frank Peratrovich, Vice Chairman of the Council, and Representative Warren A. Taylor.

(boroughs) based on economic, geographic, social, and political factors; initially, not all need be organized.”<sup>5</sup>

Thomas A. Morehouse and Victor Fischer wrote in Borough Government in Alaska under the heading “Organized and Unorganized Boroughs” that, “All of Alaska was to be subdivided into logical borough units. Depending on readiness and capability for government, these would be classified as organized or unorganized boroughs . . .”

Richard W. Garnett, III, wrote in a paper for the Institute of Social, Economic and Government Research that, “The local government article of the state constitution calls for the division of the state into boroughs, organized and unorganized. The language of the article presupposes plural unorganized units.<sup>6</sup> The specific reference in Section 6 to ‘maximum local participation and responsibility’ in unorganized boroughs indicates that manageable units encompassing communities of interest were contemplated for unorganized as well as organized boroughs. It is difficult to believe that the single unorganized borough that now exists complies with the intention expressed in the constitution.”

The Local Boundary Commission expressed views consistent with this interpretation during its “Model Borough Boundary Study”.<sup>7</sup> For example, in the LBC’s paper announcing the model borough boundary study for the Aleutian/Pribilof Islands Region, the LBC stated, “Clearly, the Unorganized Borough does not meet the requirement of Article X, Section 3 of the Alaska Constitution that, ‘each borough embrace an area and population with common interests to the maximum degree possible.’” (August 1991, page A-2)

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<sup>5</sup> Vic Fischer was a Delegate to Alaska’s Constitutional Convention and was also a member of the Convention’s Committee on Local Government. He is widely regarded as an expert on Alaska’s Constitution, particularly the local government article.

<sup>6</sup> Equalization of Local Government Revenues in Alaska (ISEGR Occasional Papers, January 1973). Richard W. Garnett, III, is a former Assistant Attorney General for the State of Alaska. His remarks may have represented his personal views rather than those of the Department of Law.

<sup>7</sup> The LBC and its DCRA staff began the Model Boundary study throughout the unorganized

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borough in mid-1989. The goal of the study was to “identify the best potential boundaries for future boroughs.” The project was completed in 1992.