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SB 1

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SB 15

January 24, 1983

ORA

Jalmar M. Kerttula
President of the Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Kerttula:

Attached hereto is the Report of 1982 Activities of the Local Boundary Commission and Recommendations to the First Session of the Thirteenth Legislature for Certain Municipal Boundary Changes by the Local Boundary Commission. The report contains recommendations for changes to the boundaries of three municipalities which, pursuant to Article X, Section 12 of the State Constitution and ~~AS 29.68.010~~, are to be presented to the Legislature. These recommended boundary changes 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.

Sincerely,



Sheila Gallagher
Chairman
Local Boundary Commission

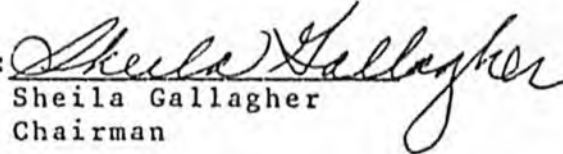
Received 1/26/83
Senate Sec. office

STATE OF ALASKA

LOCAL BOUNDARY COMMISSION

REPORT OF 1982 ACTIVITIES OF THE LOCAL BOUNDARY COMMISSION
AND RECOMMENDATIONS TO THE FIRST SESSION
OF THE THIRTEENTH LEGISLATURE
FOR CERTAIN MUNICIPAL BOUNDARY CHANGES

Submitted by:


Sheila Gallagher
Chairman

January 26, 1983

INTRODUCTION

The Local Boundary Commission was established pursuant to Article X Section 12 of the State Constitution and Section 44.47.565 of the Alaska Statutes for the purposes of considering municipal incorporations and boundary changes.

Municipal incorporations are effected under the provisions of AS 29.18.011-180. It is the responsibility of the Local Boundary Commission to review and act on all petitions for municipal incorporations in accordance with AS 29.18, 19 AAC 10.010-030 and 19 AAC 10.325-440.

Municipal boundary changes (annexation and detachments) may be effected by Local Boundary Commission action through either of two general procedures:

- A. Legislative Review - The legislative review boundary change procedure assures an objective examination of the merits of a proposed municipal boundary change. In that the decision on such matters rests with the Local Boundary Commission and the Legislature, this process assures that decisions will be made with the greatest consideration given to the application of regulatory standards concerning such matters.

This process is typically initiated by municipalities in situations where there is a compelling need for the proposed boundary change, but where a majority of the residents in the territory included in the proposed boundary change oppose it.

Under this process the Local Boundary Commission may accept and review any proposed local government boundary change. Once the Local Boundary Commission has accepted a petition proposing a local government boundary change, the Commission conducts a public hearing in the municipality proposing the boundary change. If, after the public hearing is completed, the proposed boundary change is approved by the Local Boundary Commission, the Commission presents a recommendation for the change to the Legislature during the first 10 days of any regular session. The recommended change becomes effective 45 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.

- B. Local Action - Municipal boundary changes subjected to this process gain final approval at the local level. The following discussion examines the three types of local action boundary change procedures:

1. An area adjoining a municipality may be annexed or detached by municipal ordinance without an election, provided all property owners and voters within the area

petition the assembly or council. The annexation becomes effective with the consent of a majority of the Local Boundary Commission members.

2. Municipally owned property adjoining the municipality may be annexed by ordinance without voter approval. The annexation becomes effective with the consent of a majority of the Local Boundary Commission members.
3. A proposition for the annexation or detachment of territory may be submitted to the voters residing within the area of the proposed boundary change. To become effective the proposed boundary change must be approved by a majority of such voters. Before the proposition is submitted to the voters, the Local Boundary Commission must approve a petition for the proposed boundary change.

The Local Boundary Commission consists of five members, one from each of the four Judicial Districts of the State, plus one member at large. The Commission members serve without compensation at the pleasure of the Governor. The current members of the Commission are:

SHEILA GALLAGHER, Chairman, serving at large;
JOSEPHINE ANDERSON, member from the First Judicial District;
BERT GREIST, member from the Second Judicial District;
SIGVALD STRANDBERG, member from the Third Judicial District; and
CHARLES BETTISWORTH, member from the Fourth Judicial District.

Staff support for the Local Boundary Commission is provided by the Department of Community and Regional Affairs, Local Government Assistance Division.

This document contains a report of the Commission's activities during 1982. More importantly, it contains recommendations to the First Session of the Thirteenth Legislature for changes to the boundaries of three municipalities, pursuant to Article X, Section 12 of the State Constitution and AS 29.68.010. These recommended boundary changes 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.

In addition, this document contains recommendations that the Legislature: 1) create a police service area in the vicinity of Togiak Bay; 2) review the inequities in the delivery of services to residents of organized boroughs as compared to those areas of the unorganized borough which meet the regulatory standards for creation of borough governments (19 AAC 10.160-180); and 3) consistent with the Legislature's constitutional mandate (Article X Sec. 3) to divide the State into boroughs, organized or unorganized, should examine the creation of boroughs in areas of the State where borough creation standards are met.

SUMMARY OF ACTIVITIES OF THE
LOCAL BOUNDARY COMMISSION DURING 1982

During 1982 the Local Boundary Commission dealt with petitions concerning the following proposed municipal incorporations and boundary changes:

- 1) FAIRBANKS NORTH STAR BOROUGH - The Commission approved the petition for the annexation of Eielson Air Force Base, comprising approximately 446.06 square miles. The proposed annexation is subject to Legislative review of the recommendation submitted on pages five through eight of this document.
- 2) CITY OF PORT LIONS - The Commission approved the petition for annexation of approximately 8.5 square miles. The proposed annexation is subject to Legislative review of the recommendation submitted on pages nine through eleven of this document.
- 3) CITY OF HAINES - The Commission approved the petition for annexation of approximately 15.5 acres. The proposed annexation is subject to Legislative review of the recommendation submitted on pages twelve through fourteen of this document.

On February 19, 1983, the Commission is scheduled to conduct a public hearing in the City of Haines to determine if additional territory should be annexed to the City.

- 4) CITY OF TOGIAK - The Commission denied the petition for annexation of 51.7 square miles. However, as formally presented on pages fifteen through nineteen of this document, the Commission recommends that the Legislature create a police service area in the unorganized borough in the Togiak Bay area, including the community of Twin Hills and the City of Togiak.
- 5) MATANUSKA-SUSITNA BOROUGH - The Commission denied the petition for the detachment of 432 square miles in and around the community of Lake Louise from the Matanuska-Susitna Borough. However, as formally presented on pages twenty through twenty-two of this document, the Commission recommends that the Legislature examine the inequities in the delivery of services to residents of organized boroughs as compared to areas of the unorganized borough which meet the regulatory standards for creation of borough governments (19 AAC 10.160-180) and that the Legislature mandate the creation of boroughs in areas where such standards are met.

- 6) CITY OF TELLER - The Commission approved the annexation of 1.835 square miles. The proposed annexation was contingent upon voter approval pursuant to AS 29.68.010(1). Such approval was subsequently granted.
- 7) CITY OF KETCHIKAN - Pursuant to AS 29.68.010(3), the Commission approved the annexation of approximately 27.3 acres requested by all of the property owners and resident voters involved.
- 8) CITY OF PALMER - Pursuant to AS 29.68.010(3), the Commission approved the annexation of approximately 38.5 acres requested by all of the property owners and resident voters involved.
- 9) CITY OF PALMER - Pursuant to AS 29.68.010(3), the Commission approved the annexation of approximately 3.2 acres requested by all of the property owners and resident voters involved.
- 10) CITY OF ATQASUK - The Commission approved the petition for the incorporation of Atqasuk as a city of the second class, pursuant to AS 29.18. Atqasuk voters subsequently approved the proposed incorporation. The City's boundaries encompass approximately 42.875 square miles.
- 11) CITY OF THORNE BAY - The Commission approved the petition for the incorporation of Thorne Bay as a city of the second class, pursuant to AS 29.18. Thorne Bay voters subsequently approved the proposed incorporation. The City's boundaries encompass approximately 22.50 square miles.
- 12) CITY OF KASIGLUK - The Commission approved the petition for the proposed detachment of Kasigluk from the City of Akolmiut and the subsequent incorporation of Kasigluk as a city of the second class, pursuant to AS 29.18. Kasigluk voters approved the proposed detachment and subsequent incorporation. The City's boundaries encompass approximately 16 square miles.

The incorporation of the Cities of Atqasuk, Thorne Bay and Kasigluk bring the total number of municipal corporations in the State to 155.

STATE OF ALASKA
LOCAL BOUNDARY COMMISSION

RECOMMENDATION NUMBER ONE TO THE
FIRST SESSION OF THE THIRTEENTH LEGISLATURE

RECOMMENDATION FOR THE ANNEXATION OF TERRITORY
TO THE FAIRBANKS NORTH STAR BOROUGH

WHEREAS, on September 17, 1982 the Fairbanks North Star Borough submitted a petition to the Local Boundary Commission (hereinafter "Commission") through the Department of Community and Regional Affairs (hereinafter "Department") in accordance with the applicable laws and regulations of the State of Alaska. The petition proposed the annexation of Eielson Air Force Base comprising approximately 446.06 square miles; and

WHEREAS, on October 19, 1982 the Department determined the petition to be acceptable as to form and content; and

WHEREAS, the Department caused to be published, proper notice of filing of the petition for annexation; and

WHEREAS, on November 29, 1982 the Commission held a public hearing in Fairbanks on the petition for annexation; and

WHEREAS, on November 29, 1982 the Commission rendered its decision on the petition for annexation;

NOW, THEREFORE, based upon the extensive briefing of the petitioner, the investigation of and report on the petition by the Department, and the information obtained from the public hearing conducted on the matter, the Commission made the following findings of fact and entered its decision pursuant thereto:

1. Eielson Air Force Base is entirely surrounded by, but is excluded from, the Fairbanks North Star Borough.
2. The Eielson Air Force Base school is operated by the Borough School District on a contractual basis. The Fairbanks North Star Borough School District offers educational services to the Base students commensurate with services provided to Borough students.
3. The residents of the Base make ready use of and benefit from many of the facilities and services provided by the Borough. In addition to education, such facilities and

services include parks, recreation, libraries and the transit system.

4. The Eielson Air Force Base sanitary landfill is reaching its capacity. The Borough exercises the areawide solid waste disposal power and has made plans for the accommodation of solid waste from Eielson Air Force Base.
5. The Soldiers and Sailors Civil Relief Act (USC APPX SEC. 574) exempts military personnel from property taxation. As such, the annexation will not result in the payment of property taxes by the Base residents. However, based upon current data the addition of Base residents to the Borough's population will annually increase the Borough's Municipal Assistance funding by approximately \$750,000 and its State Revenue Sharing funding by approximately \$275,000.
6. Residents of Eielson Air Force Base may not participate in the democratic processes which guide the municipality's direction and growth. So long as these individuals reside outside the municipality's boundaries, they are precluded from membership on the Borough Assembly. Furthermore, residents of the Base may not vote for members of the Assembly and may not vote on Borough referenda or initiatives. Annexation would extend such opportunities to these individuals.

THEREFORE, the Commission hereby recommends to the First Session of the Thirteenth Legislature of the State of Alaska, annexation to the Fairbanks North Star Borough of the territory shown on page eight. If the annexation is approved by the Legislature, the boundaries of the Fairbanks North Star Borough will read as follows:

Beginning at the NW Corner of T4N, R5W, Fairbanks Meridian;

Thence easterly along the north line of T4N to the ridge between the headwaters of Trail and Poker Creeks;

Thence northeasterly following this ridge south of Ophir and Nome Creeks and around the headwaters of Hope and Charity Creeks;

Thence southeasterly following the ridge south of the headwaters of Bachelor and McKinley Creeks across the Steese Highway at Twelvemile Summit;

Thence following the divide around the headwaters of Harrington and Crooked Creeks;

Thence around the headwaters of Boulder Creek and the North Fork of the Chena River to the summit of Far Mountain;

Thence easterly along the divide around the headwaters of Lawson Creek and Cash Creek;

Thence following the ridge north of the headwaters of the East Fork of the Chena River and around the headwaters of the Salcha River;

Thence southerly around the headwaters of Lost Creek to the ridge north of the Goodpaster River;

Thence southwesterly along this ridge, around the headwaters of Indian Creek, Gillis Creek, and Rosa Creek and continuing along the ridge between Buckeye Creek and Tenderfoot Creek across the Richardson Highway to a point in midstream of the Tanana River;

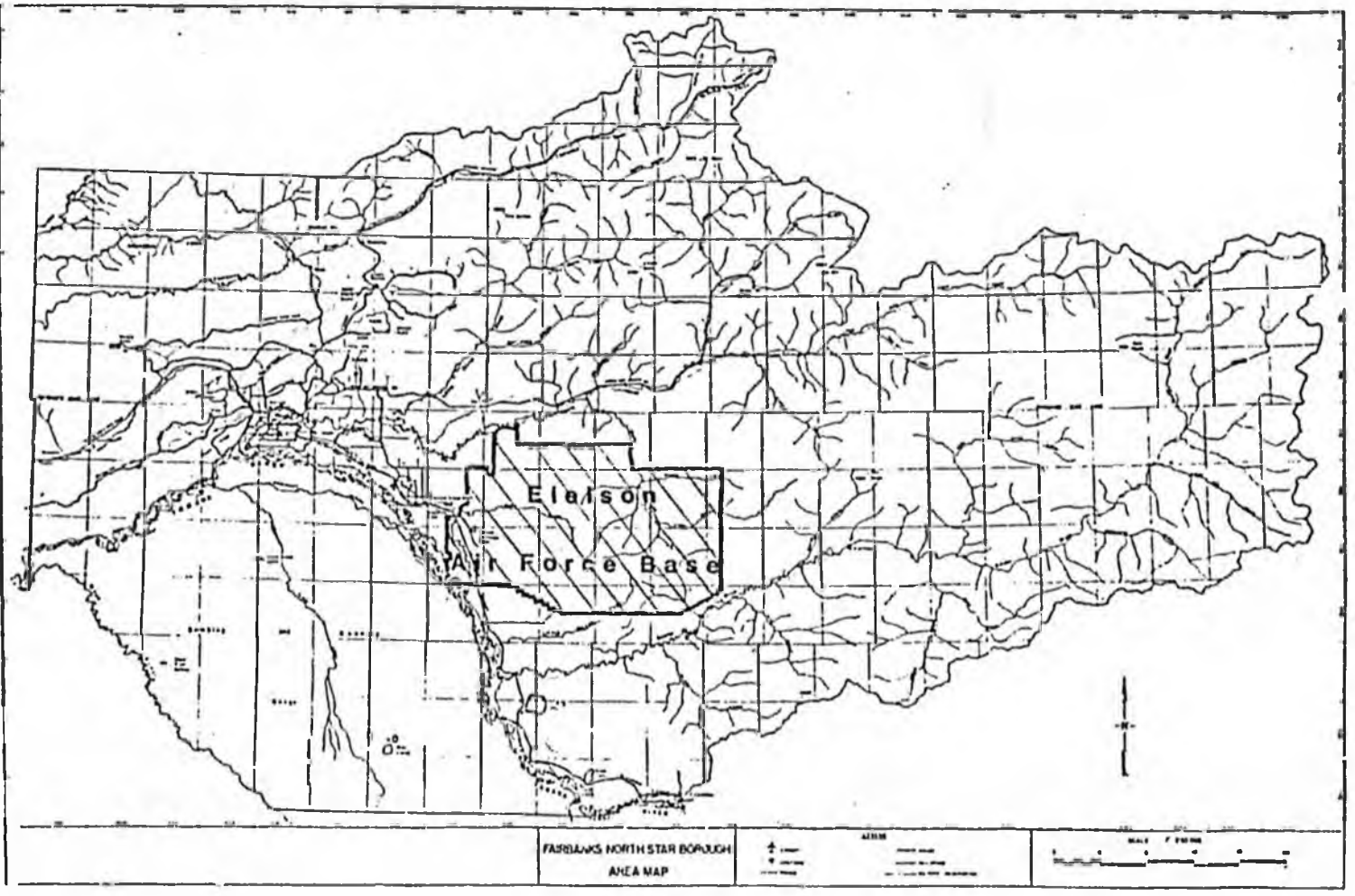
Thence downstream in midstream of the Tanana River to its intersection with the south line of T7S;

Thence west on this township line to a point midstream in the Wood River;

Thence downstream in midstream of the Wood River to a point midstream in the Tanana River;

Thence north and east in midstream of the Tanana River to its point of intersection with the west line of R5W;

Thence north on this range line to the NW Corner of T4N, R5W, the point of beginning.



STATE OF ALASKA
LOCAL BOUNDARY COMMISSION

RECOMMENDATION NUMBER TWO TO THE
FIRST SESSION OF THE THIRTEENTH LEGISLATURE

RECOMMENDATION FOR THE ANNEXATION OF TERRITORY
TO THE CITY OF PORT LIONS

WHEREAS, on October 24, 1982 the City of Port Lions submitted a petition to the Local Boundary Commission (hereinafter "Commission") through the Department of Community and Regional Affairs (hereinafter "Department") in accordance with the applicable laws and regulations of the State of Alaska. The petition proposed the annexation of approximately 2.18 square miles; and

WHEREAS, on November 17, 1982 the Department determined the petition to be acceptable as to form and content; and

WHEREAS, the Department caused to be published, proper notice of filing of the petition for annexation; and

WHEREAS, on December 17, 1982 the Commission held a public hearing in the City of Port Lions, on the petition for annexation; and

WHEREAS, on December 17, 1982 the Commission rendered its decision on the petition for annexation;

NOW, THEREFORE, based upon the extensive briefing of the petitioner, the investigation of and report on the petition by the Department, and the information obtained from the public hearing conducted on this matter, the Commission made the following findings of fact and entered its decision pursuant thereto:

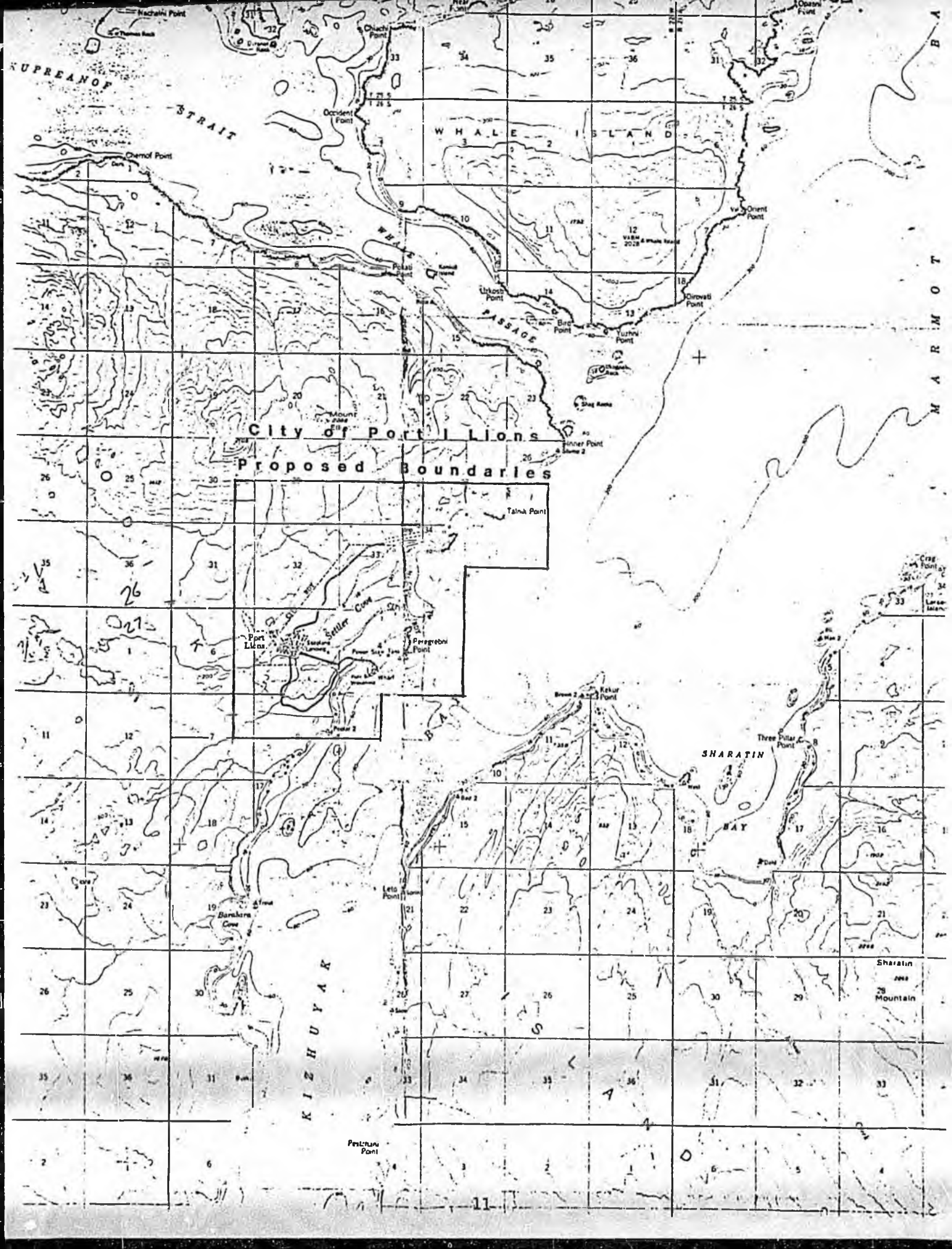
1. The City provides emergency medical services, fire protection and police protection to those residents living outside of the City. Additionally, the City provides water and sewer utility service and road maintenance to residents of the upper half of the new subdivision which is outside the present City boundaries. Airport and road maintenance is also provided by the City beyond the City boundaries through a contractual agreement with the State. The Kodiak Island Borough does not have a service area for road maintenance, fire protection, water or sewer in the Port Lions area. Therefore, the City of Port Lions is the

most appropriate entity to provide such services to those individuals living outside of the City boundaries.

2. An area beyond the City boundaries has been identified by the City as a future park. A new subdivision is being developed outside the municipal boundaries; the City's watershed is also outside the municipal boundaries. The annexation of the territory in U.S. Survey #5509 would encompass these areas.
3. The road passing through U.S. Survey #1736 connects the two noncontiguous parts of the City. There is a reasonable likelihood that future growth and development will occur along this road. A portion of the territory proposed for annexation has been identified for industrial and commercial development.
4. Individuals residing outside of the municipal boundaries may not participate in the democratic processes which guide the municipality's direction and growth. So long as these individuals reside outside of the municipality's boundaries, they are precluded from holding office on the City Council. Furthermore, these residents may not vote for members of the City Council and may not vote on referenda or initiative. Annexation would extend such opportunities to these individuals.

THEREFORE, the Commission hereby recommends to the First Session of the Thirteenth Legislature of the State of Alaska, annexation to the City of Port Lions of the territory shown on page eleven. If the annexation is approved by the Legislature, the boundaries of the City of Port Lions would read as follows:

Beginning at the northwest corner of the NE 1/4 of the SE 1/4 of protracted Section 30, T26S, R22W, Seward Meridian (S.M.); thence due south to the southwest corner of the SE 1/4 of the NE 1/4 of protracted Section 7, T27S, R22W, S.M.; thence due east to the southeast corner of the NW 1/4 of protracted Section 9, T27S, R22W, S.M.; thence north to the southeast corner of the SW 1/4 of protracted Section 4, T27S, R22W, S.M.; thence due east to the southeast corner of the SW 1/4 of protracted Section 3, T27S, R22W, S.M.; thence due north to the southwest corner of the NE 1/4 of protracted Section 34, T26S, R22W, S.M.; thence due east to the southeast corner of the NW 1/4 of protracted Section 35, T26S, R22W, S.M., thence due north to northeast corner of the SW 1/4 of protracted Section 26, T26S, R22W, S.M.; thence due west to the northwest corner of the NE 1/4 of the SE 1/4 of protracted Section 30, T26S, R22W, S.M., the true point of beginning, containing 8.75 square miles, more or less; in the Third Judicial District of the State of Alaska.



KUPREANOF STRAIT

WHALE ISLAND

City of Port Lions
Proposed Boundaries

SHARATIN BAY

KIZHUYAK

M A R M O T B A

Nachalni Point
Chernof Point
Occident Point

Church Point
Pokati Point
Urkost Point
Bird Point
Yuzhni Point

Opatni Point
Orient Point
Cirovati Point

Mount 2000
Talnok Point
Port Lions
Sattler Cove
Pogrebni Point
Polar 2
Polar 3
Kekur Point
Brown 2
Brown 3

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Pestchay Point

Sharatin Mountain

Three Polar Point

Leto Point

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STATE OF ALASKA
LOCAL BOUNDARY COMMISSION

RECOMMENDATION NUMBER THREE TO THE FIRST SESSION
OF THE THIRTEENTH LEGISLATURE

RECOMMENDATION FOR THE ANNEXATION OF TERRITORY
TO THE CITY OF HAINES

WHEREAS, on September 22, 1982 the City of Haines submitted a petition to the Local Boundary Commission (hereinafter "Commission") through the Department of Community and Regional Affairs (hereinafter "Department") in accordance with applicable laws and regulations of the State of Alaska. The petition proposed the annexation of approximately 3.5 square miles; and

WHEREAS, on October 6, 1982 the Department determined the petition to be acceptable as to form and content; and

WHEREAS, the Department caused to be published, proper notice of filing of the petition for annexation; and

WHEREAS, on December 12, 1982 the Commission held a public hearing in the City of Haines on the petition for annexation, but said hearing was interrupted by a power outage.

WHEREAS, on January 8, 1983 the Commission attempted to hold a second public hearing in the City of Haines, but was prevented from doing so by weather conditions; and

WHEREAS, on January 9, 1983 the Commission concluded that it had sufficient information to hold a decisional session on the annexation of the municipal port facilities to the City of Haines; and

WHEREAS, on January 14, 1983 the Commission rendered its decision on the petition for annexation;

NOW, THEREFORE, based upon the extensive briefing of the petitioner, the answering brief submitted by the Haines Borough Citizens Against Annexation, the investigation of and report on the petition by the Department, and the information obtained from the City of Haines public hearing, the Commission made the following findings of fact and entered its decision pursuant thereto:

1. The City of Haines owns and operates extensive port facilities extraterritorially. The port facilities consist of the six-acre dock, a barge offloading facility and approximately 54 acres of unimproved uplands.

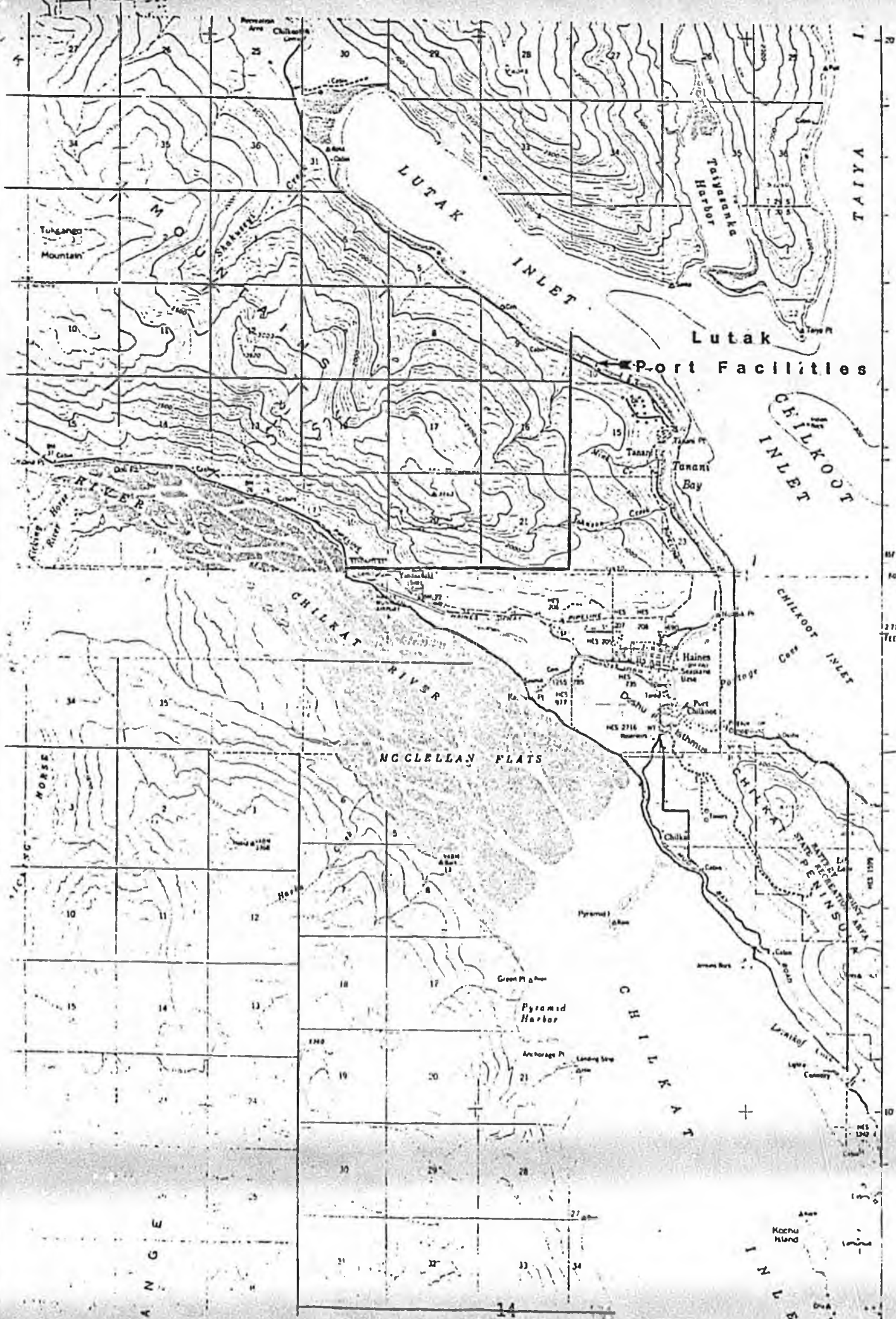
2. AS 29.48.030(3) grants municipalities the power necessary to provide harbors, wharves and other marine facilities. AS 29.48.037, however, establishes limitations of extraterritorial jurisdiction to specific facilities. At the present time municipalities are not granted powers of extraterritorial jurisdiction for port facilities. The municipal dock is a public facility, purchased and improved with public funds and is operated by the City of Haines for the public convenience and necessity. The extension of a municipal jurisdiction by annexation is necessary to comply with existing State statutes and to incorporate port facilities within the broader framework of City government.
3. There is a reasonable likelihood that future growth and development will occur within the City's port facilities and that the annexation of this territory will enable the City to plan for and control that development.

THEREFORE, the Commission hereby recommends to the First Session of the Thirteenth Legislature of the State of Alaska, annexation of the following described territory, (as shown on page fourteen) to the City of Haines:

The City of Haines Port Facilities at Lutak Harbor including all portions of the dock, the barge offloading facility and all the land beneath said facilities and seaward 400 feet in all seaward directions, containing approximately 15.5 acres.

FURTHER, the Commission acknowledges the necessity for further evaluation of the need for annexation of territory between the current boundaries of the City of Haines and the City port facilities and populated areas of the Haines Borough outside of the City of Haines; and

THEREFORE, the Commission may develop a recommendation for the annexation of additional territory to the City of Haines to be presented to the Second Session of the Thirteenth Legislature.



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STATE OF ALASKA
LOCAL BOUNDARY COMMISSION

RECOMMENDATION NUMBER FOUR TO THE FIRST SESSION
OF THE THIRTEENTH LEGISLATURE

CREATION OF A POLICE SERVICE AREA
IN THE UNORGANIZED BOROUGH IN
THE TOGIAC BAY AREA .

WHEREAS, on September 30, 1982 the City of Togiak submitted a petition to the Local Boundary Commission (hereinafter "Commission") through the Department of Community and Regional Affairs (hereinafter "Department") in accordance with applicable laws and regulations of the State of Alaska. The petition proposed the annexation of approximately 51.7 square miles; and

WHEREAS, on November 17, 1982 the Department determined the petition to be acceptable as to form and content; and

WHEREAS, the Department caused to be published, proper notice of filing of the petition for annexation; and

WHEREAS, on December 16, 1982 the Commission held a public hearing in Togiak, on the petition for annexation; and

WHEREAS, on January 14, 1983 the Commission held a decisional meeting on the annexation petition and rendered its decision on the petition;

NOW, THEREFORE, based upon the extensive briefing of the petitioner, the investigation of and report on the petition by the Department, and the information obtained from the Togiak public hearing, the Commission made the following findings of fact and entered its decision pursuant thereto:

1. The territory proposed for annexation by the City of Togiak is located to the east of the current boundaries of the City. The territory is not surrounded by the City.
2. The territory proposed for annexation is not owned by the City.

Much of the the territory proposed for annexation by the City of Togiak includes the territory proposed for selection by the community of Twin Hills pursuant to the provisions of 14(c)(3) of the Alaska Native Claims Settlement Act. Representatives of the community of Twin Hills contend that the territory proposed for annexation

includes territory which the village of Twin Hills will need for future expansion and for municipal purposes should it incorporate.

The community of Twin Hills is constructing a road from the community to Togiak Bay. This road will connect the community with the area it has selected for the staging of its fishing activities. In addition, the map on page nineteen of this report identifies lands being selected by the village of Twin Hills. These selections will be used by the area for future growth of the community, including the development of a solid waste disposal site and commercial ventures. All of these sites are within the territory proposed for annexation.

3. The vast majority of the territory proposed for annexation by the City of Togiak has no population. However, the cannery site in the area proposed for annexation does have seasonal population influxes and is a major site of fishing activity in the Togiak Bay area. Additionally, several floating packers enter the area proposed for annexation in the summer months.
4. The Togiak Fisheries Cannery, which is within the territory proposed for annexation, employs a large number of workers each summer. Many of the Togiak residents are associated with the Togiak Fisheries Cannery, and have personal property at the cannery site. The City feels that police protection should be extended to this area to provide protection for Togiak residents and their property. Currently, the cannery site is within the jurisdiction of the Alaska State Troopers.

The City of Togiak prohibits the sale and importation of alcoholic beverages within its boundaries. For this control to be effective, the City of Togiak feels that prohibition on the sale and importation of alcoholic beverages must be extended to the cannery area. However, AS 04.11.496 provides that the enactment by a municipality of a prohibition on the sale and importation of alcoholic beverages also restricts the sale of alcoholic beverages within five miles of the boundaries of the municipality.

5. The community of Togiak has grown from a population of 71 in 1930 to 511 in 1981. This has largely been the result of the viable economic base in the community of Togiak. The village corporation is constructing a new cannery within the City. A large scale commercial herring fishery has existed in Togiak since 1977. There is every indication that this growth will continue.

The growth the City of Togiak has experienced has been restricted to the present boundaries of the City. The most notable recent growth is the development of the new cannery by the Togiak Village Corporation. As previously mentioned, the community of Twin Hills views the area proposed for annexation as the territory it needs for the future growth of its own prospective municipality. If this territory was annexed by the City of Togiak, there would be little viable opportunity for the community of Twin Hills to incorporate.

The Commission feels there exists the likelihood of economic growth and development within the territory proposed for annexation. This potential for growth should be viewed as economic potential for the community of Twin Hills, not the City of Togiak.

6. Togiak residents work and own property in the area proposed for annexation. The City feels that it is necessary to annex this area to ensure the residents' safety. Although the City reports that this situation exists, no supporting documentation has been provided to the Commission. As stated earlier, the City of Togiak prohibits the importation and sale of alcohol, although alcohol may be transported by boat into areas of Togiak Bay that are outside a five mile radius of the municipal boundaries.

The Commission feels that adequate protection exists for Togiak residents without expanding municipal boundaries, and the provisions relating to the prohibition of the sale and importation of alcoholic beverages should sufficiently safeguard against the sale of alcoholic beverages within the vicinity of the City. However, the Commission does recognize that the cannery workers and fishermen in the area proposed for annexation and the residents of the community of Twin Hills do have a need for police protection during the fishing season.

7. The municipal boundaries need not be extended to include the Togiak Cannery area in order for the adequate protection of the Togiak residents and for the adequate enforcement of the alcohol importation prohibition to be effective .
8. There are only seasonal workers in the area proposed for annexation. However, as they are across the Bay from the City of Togiak it is doubtful that they receive any direct services from the City. If goods are purchased in the City of Togiak by these nonresidents, then all sales are subject to a 2 percent sales tax. The owners of the cannery in the territory proposed for annexation employ a year round watchman to protect cannery property.

9. The Commission is not aware of any public purpose to be accomplished through the annexation of this territory.

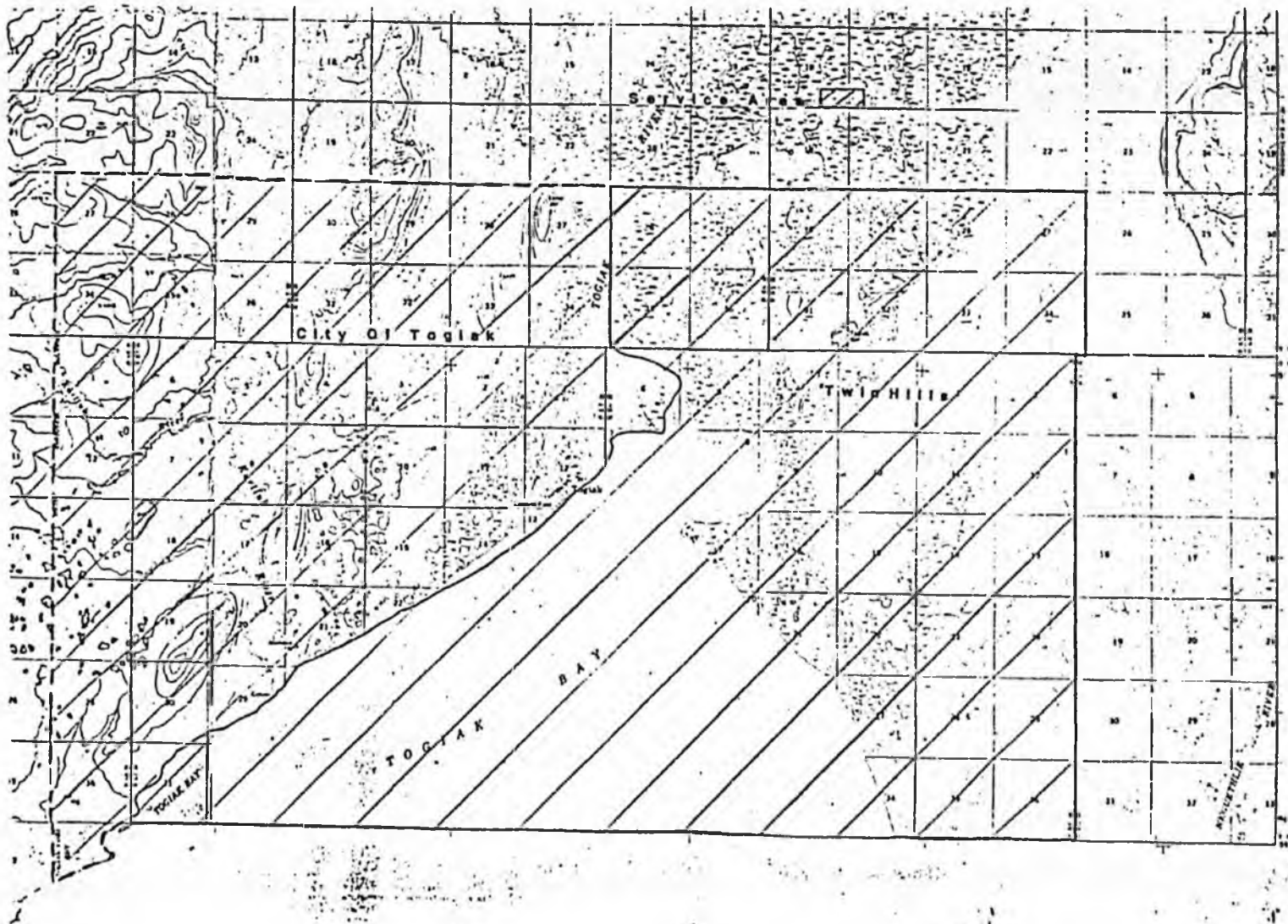
THEREFORE, the Commission denied the petition for annexation.

The Commission finds further, that there exists a need for the extension of police powers into the territory purposed for annexation and the community of Twin Hills;

THEREFORE, the Commission recommends to the First Session of the Thirteenth Legislature of the State of Alaska that it create a service area pursuant to AS 29.03.020 to provide police powers to the area as shown on page nineteen;

THEREFORE, the Commission recommends that the Legislature establish the service area with the proviso that the City of Togiak provide police services on a contractual basis to the service area as described below;

The City of Togiak and the following protracted townships, sections or fractions of sections; within T13S, R66W, Seward Meridian (S.M.); sections and fractions of Sections 27, 28, 29, 30, 31, 32, 33, and 34 within T12S, R65W, S.M.; sections and fractions of Sections 25, 26, 35, and 36 within T12S, R66W, S.M., presently not within the City of Togiak boundaries; and the remainder of sections and fractions of sections within T13S, R67W, S.M., presently not within the City of Togiak boundaries.



STATE OF ALASKA
LOCAL BOUNDARY COMMISSION

RECOMMENDATION NUMBER FIVE TO THE
FIRST SESSION OF THE THIRTEENTH LEGISLATURE

RECOMMENDATION THAT THE LEGISLATURE REVIEW
THE INEQUITIES IN THE DELIVERY OF SERVICES TO
RESIDENTS OF ORGANIZED BOROUGHS AS COMPARED
TO THE UNORGANIZED BOROUGH

WHEREAS, on July 29, 1982 the Department received the petition for the detachment of the 432 square miles of territory surrounding Lake Louise from the Matanuska-Susitna Borough; and

WHEREAS, on August 6, 1982 the Department determined the petition to be acceptable as to form and content and forwarded the petition to the Matanuska-Susitna Borough Assembly for review and comment; and

WHEREAS, in accordance with 19 AAC 10.640, on August 17, 1982 the Matanuska-Susitna Borough Assembly held a public review of the petition and submitted the petition with the Borough's Answering Brief to the Department on August 20, 1982; and

WHEREAS, the Department caused to be published proper notice of filing of the petition for annexation; and

WHEREAS, on September 25, 1982 the Commission held a public hearing in the community of Lake Louise, on the petition for annexation; and

WHEREAS, on January 8, 1983 the Commission rendered its decision on the petition for detachment;

Based upon the extensive briefing of the petitioner, the answering brief of the Matanuska-Susitna Borough, the investigation of and report on the petition by the Department, and the information obtained from the Lake Louise public hearing, the Commission made the following findings of fact and entered its decision pursuant thereto:

1. The Borough form of government establishes a means of providing local government for an area of the state which is culturally, economically and geographically related. If the Lake Louise territory was allowed to detach, it would become part of the unorganized borough. Such detachment would remove a portion of an organized borough which has been functioning and providing services on a

regional basis for the past eighteen years. The needs of the Lake Louise area which are provided by the Borough would then become the State's responsibility.

The Matanuska-Susitna Borough would be adversely affected by the detachment of the Lake Louise area. It would reduce the assessed value of the Borough by \$6,941,700. As the bonding capability of the Borough is based upon the level of taxable property, the uncertain future of current boundaries would have a debilitating affect upon the Borough's bonding rating and its capacity to issue bonds. In addition, there are other regions within the Matanuska-Susitna Borough and other boroughs of the State that are of a similar circumstance; such detachment would set a precedent for the future detachment proceedings from organized boroughs.

2. The Matanuska-Susitna Borough has 20,544 square miles within its jurisdiction, with a population of 19,123. This immense area contains a diversity of social, cultural and economic settings. More than 70% of all Borough residents live outside the four largest communities (Palmer, Wasilla, Houston, and Talkeetna). The rural population of the Borough has many similarities in that it is distributed along the road system, it experiences a high rate of unemployment and seasonal work, and has moved to the rural areas of the Borough within the last 20 years. There are no indications that the residents of the Lake Louise community differ substantially from many of the Borough residents residing in the rural areas of the Borough.
3. The Matanuska-Susitna Borough currently levies an areawide mill rate of 4.9 mills and a nonareawide mill rate of 0.5 mills. The areawide functions are primarily involved with the education, school bonded debt service, planning, land management and taxation. The remoteness and insignificant school age populations of Lake Louise have, from a practical standpoint, limited Borough services. However, that is not to say that with the future anticipated growth within the Lake Louise area, the residents and future residents could not receive services commensurate with the rest of the Matanuska-Susitna Borough.
4. Communications with the Lake Louise area are more difficult than in many other areas of the Matanuska-Susitna Borough. The community has limited telephone service in that it can only be reached through a radio dispatch phone service in Anchorage. The Lake Louise area is on the east side of the Talkeetna mountains, which does separate it from the more populated areas of the Borough lying west of the mountains. This

does make immediate communication between the Borough government and the community relatively difficult. However, the community of Lake Louise is accessible by road on a year round basis. This enables the community to receive scheduled mail service. Therefore, it can be concluded that although communication and transportation services to the Lake Louise area are relatively difficult, they do not preclude the exchange necessary for responsive integrated local government.

5. There will be a significant land disposal effort in the Lake Louise area during the next three years. The State of Alaska is planning to subdivide and distribute land in the Lake Louise area in the immediate future. It is anticipated that 2,635 parcels of land will be transferred from State ownership to private ownership during the next three years. As a result of the anticipated population growth in the Lake Louise area, the planning and zoning efforts of the Borough will intensify in the Lake Louise area.

Based on its findings the Commission denied the petition for detachment.

However, the Local Boundary Commission's deliberations on the Lake Louise detachment petition accentuates the inequity in the delivery of services in organized boroughs as compared to the unorganized borough. Residents of organized boroughs pay substantial property taxes to support the cost of local government services, while residents of the unorganized borough pay no taxes to support similar services provided by the State. The predicted decline in State revenues exacerbates the necessity for a thorough examination of the need for the creation of boroughs within the State. The Commission recommends to the First Session of the Thirteenth Legislature that it review the inequities in the delivery of services to residents of organized boroughs throughout the State as compared to the unorganized borough; and

The Commission further recommends that the Legislature examine the unorganized borough and identify areas of the unorganized borough which meet the regulatory standards (19 AAC 10.160-180) for creation of borough governments. Furthermore, the Commission recommends that, consistent with the Legislature's constitutional mandate (Article X Sec. 3) to divide the State into boroughs, organized or unorganized, the Legislature should examine the creation of boroughs in areas of the State where borough creation standards are met.



THE CITY AND BOROUGH OF JUNEAU

CAPITAL OF ALASKA

155 SOUTH SEWARD ST. JUNEAU, ALASKA 99801

February 8, 1983

Senate Community and
Regional Affairs Committee
Juneau, Alaska

File: Legislature - 1983 - Senate Bill 1

Gentlemen:

Please consider the following recommendations in your deliberations on Senate Bill 1.

On page 42, line 22, insert the phrase "charter or" immediately before the word "ordinance." In at least one community, and possibly others, this matter is dealt with by a charter provision rather than by ordinance.

On page 56, beginning at line 25, I suggest that lines 25 through 29 be deleted along with the reference to this section under the home rule laundry list at line 17 on page 23. Alaska Statute 36.25.025 applies to all municipalities whether home rule or general law. If a home rule municipality wishes to exempt its contractors from those provisions it must do so in accordance with the procedures set out in AS 36.25.025. Those procedures clearly specify the use of an ordinance to establish the exemption.

Page 76, line 17. Although this is the language used in the present law, I think it is inartful. Municipalities do not exercise the right of eminent domain merely to determine fair market value. Eminent domain is used to acquire property. The determination of fair market value is merely one of the incidences of acquiring property through the use of eminent domain. I suggest the phrase "determine fair market value" which starts in line 16 be deleted and replaced with the phrase "acquire the certificate, equipment and facilities of the carrier, or that portion of the certificate that would be affected".

Page 78, beginning at line 25 and extending through line 8 on page 80. I think this entire section is unneeded. The authority for a municipality to enter into a joint agreement for the exercise of one of its powers or functions with other municipalities, the state and the federal government is found in Section 13 of Article 10 of the Alaska Constitution. The subject section in the Bill just provides unnecessary details. It is my recollection that this section was included in the revision because it was adopted either while the Title 29 Revision Committee was revising Title 29 or shortly after the committee produced its revision. It was incorporated in the revision without substantive review. We do not have provisions in the code detailing the procedures for entering into joint

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agreements with the Forest Service for fire protection of rural properties of mutual concern, or for joint state, federal, and local drug enforcement operations or for a host of other municipal functions which are exercised jointly or in cooperation with state or federal agencies or other municipalities. I strongly suggest that this section be eliminated as it is not only superfluous, but its existence may lead courts to two unfortunate conclusions; first, that the only way municipalities may engage in a cooperative or joint emergency service communication center is as provided in the subject section; and second that inasmuch as the legislature went to great pains to detail the procedures and structures for joint operation of emergency communication centers, other similar joint operations must have specific and detailed legislative authorization. It was for these types of reasons that the technical committee for the Title 29 revision recommended striking or generalizing such detailed procedures found in the present Title 29. If there is some feeling that striking this section would jeopardize the authority of municipalities to enter into such arrangements, I suggest the section be struck and replaced with a new section under the general powers portion of the Bill which would authorize a municipality to enter into an agreement or association, including membership in a corporation, with any other municipality, the state, or federal agencies, for the purpose of exercising any power or function of the municipality.

Page 96, beginning at line 5. Subsection (c) of this section makes subsections (a) and (b) applicable to all home rule municipalities. Actually, there appears to be little need to have this apply to any home rule municipality; however, because subsection (a) deals with the different disposition of a vacated public square depending on whether the square is within a city or outside a city but within the borough, it may be appropriate to make subsection (a) applicable only to home rule boroughs and general law municipalities. In addition, the last sentence of subsection (a) which begins in line 17 could lead to some very awkward situations. If, in the original plat, a lot is dedicated as a holding area for storm waters, or as a park or for some other non-street use and is later vacated because the lot is no longer needed for that purpose it may be very difficult to determine who is the "rightful" owner; and if this "rightful" owner is someone other than the abutting property owners, it may be impossible to locate the owner. I suggest deletion of the sentence which begins on line 17, and in line 14, just before the word "public" the insertion of the phrase "lot or".

Page 105, beginning at line 7. I don't think that the definition of "developed" clarifies anything. For example, when a native corporation subdivides some of its property and puts in roads and

utilities, that would seem to be "developed" under the common use of that word; however, this definition casts serious doubts as to whether such land would be developed for tax purposes. Lines 19 and 20 establish a situation which is contrary to the subdivision laws and will create problems if there is a tax foreclosure on non-exempt land. Unless I read this part of the section incorrectly, its intent is to limit the loss of the exemption to only that portion of the parcel which is developed. That is, if the corporation owns a U.S. Survey consisting of 25 acres and it develops three acres of that parcel with an industrial park, only the three acres would be taxable. The problem this approach creates is that if the municipality forecloses on the property it must foreclose on the parcel of record; that is, the 25 acre parcel and not some lesser parcel. If it were to foreclose on a parcel other than a parcel of record, the foreclosure proceeding would have the effect of subdividing the property without going through the platting procedure. Therefore, I suggest that the language relating to the loss of the exemption to the smallest practicable tract be deleted. The corporation may protect its remaining property by subdividing the parcel into two lots; one which will be developed and will lose its exemption, and one which will not be developed. This will protect the undeveloped property.

Page 106, beginning at line 1. I suggest you consider deleting this section (n) as municipalities are already going to have a difficult enough time determining when an exempt property is "developed." To foist on it the burden of also determining if the property has subsequently become "undeveloped" is merely adding more situations for conflict between the municipality and certain of its property owners. Once property becomes taxable because it is put to productive use, is there any real reason it should not remain taxable even though the productive use may cease?

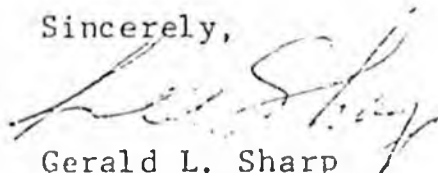
Page 107, lines 24 through 28. I believe this section should be rewritten to eliminate the now superfluous reference to excluding personal property from taxation as this is now included as a specific power for all municipalities in line 22 above. I also believe the reference to extending the redemption period should be deleted as it has nothing to do with exemptions. It also appears that this language contemplates some sort of system of partial redemption of property. If you believe this is an appropriate option for municipalities, I suggest that it should be placed in the section of this chapter which deals with foreclosure and redemption.

Page 109, beginning at line 19. You may want to consider whether to leave greenhouses under this section. Exempting greenhouses does not fit at all with the policy or purpose of the special

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procedure used to determine the value of farm or agricultural land for tax purposes. That purpose is to assist the owner of farm or agricultural land in resisting the pressures of urban growth so that he or she can afford to continue farming rather than being forced to subdivide farm land because of inflated land values. Note that only the farm land receives the special treatment, not improvements to the land such as barns, sheds, irrigation systems, etc. However, with greenhouses, the greenhouse, that is the improvement, also receives the special valuation. The effect of the addition of greenhouses to the existing farm land section results in special tax treatment for commercial greenhouses which raise dieffenbachia and cactus to be sold for use in hotel and office lobbies and to adorn file cabinets and kitchen windows. It has been my understanding that the special tax treatment for farm land was to help the industry which provides us with food to keep the price of this basic need to a minimum. Extending such special treatment to greenhouses which exist for the purpose of raising ornamental plants does not seem to fall within this lofty purpose. I believe the committee should consider incorporating the existing Title 29 language in this section by deleting the changes that were made to incorporate greenhouses.

Sincerely,



Gerald L. Sharp
City-Borough Attorney

GLS:jr



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ALASKA RURAL ELECTRIC COOPERATIVE
ASSOCIATION, INC.

6000 C STREET • SUITE C • ANCHORAGE, ALASKA 99502 • (907) 276-3235

January 27, 1983

Senate Community and Regional
Affairs Committee
Alaska State Legislature
Capitol Building
Pouch V
Juneau, Alaska 99811

Gentlemen:

Senate Bill 1 (Municipal Code) contains a serious problem for our association in the utilities section. As introduced, this section would permit municipal regulation of electric and telephone cooperatives which have been exempted from APUC regulation by a vote of their members. This exemption procedure was established by the legislature in 1980, and it has worked satisfactorily since that time.

It is my understanding that Senator Don Gilman has an amendment addressing this problem which was drafted by Lee Sharp and Stuart Hall and later refined by language from Ted Berns. This amendment would resolve our problem, and we urge your approval of this amendment.

Sincerely,

David Hutchens
Executive Director

Chugach Elec. Ass'n. Sup. Ct. Op. No. 1636
(File Nos. 2969, 2993), 580 P.2d 687
(1978); B-C Cable Co. v. City of Juneau,

Sup. Ct. Op. No. 2112 File No. 45871, 613
P.2d 616 (1980).

Sec. 42.05.711. Exemptions. (a) The provisions of AS 42.05.010 -- 42.05.721 do not apply to a person who furnishes water, gas or petroleum or petroleum products by tank, wagon, or similar conveyance, unless the person is thereby supplying water, gas, petroleum or petroleum products to a public utility in which he has an "affiliated interest."

(b) Public utilities owned and operated by a political subdivision of the state and none of whose utilities is in competition with any other utility, are exempt from the provisions of AS 42.05.010 -- 42.05.721, other than the provisions of AS 42.05.221 -- 42.05.281, unless the owner and operator elects to be subject to all provisions of AS 42.05.010 -- 42.05.721.

(c) The ownership in whole or part, of the corporate stock of a public utility does not make the owner a public utility.

(d) The commission, on a finding that no legitimate public interest will be served, may exempt a utility from all or any portion of AS 42.05.010 -- 42.05.721.

(e) Notwithstanding any other provisions of AS 42.05.010 -- 42.05.721, any electric or telephone utility that does not gross \$50,000 annually is exempt from regulation under AS 42.05.010 -- 42.05.721 unless 25 percent of the subscribers petition the commission for regulation.

(f) Notwithstanding any other provisions of AS 42.05.010 -- 42.05.721, an electric or telephone utility that does not gross \$325,000 annually may elect to be exempt from the provisions of AS 42.05.010 -- 42.05.721 other than AS 42.05.221 -- 42.05.281 under the procedure described in AS 42.05.712.

(g) A utility, other than a telephone or electric utility, that does not gross \$100,000 annually may elect to be exempt from the provisions of AS 42.05.010 -- 42.05.721 other than AS 42.05.221 -- 42.05.281 under the procedure described in AS 42.05.712.

(h) A cooperative organized under AS 10.25.010 -- 10.25.650 may elect to be exempt from the provisions of AS 42.05.010 -- 42.05.721, other than AS 42.05.221 -- 42.05.281, under the procedure described in AS 42.05.712.

(i) A utility which furnishes collection and disposal service of garbage, refuse, trash, or other waste material and has annual gross revenues of \$200,000 or less is exempt from the provisions of this chapter, other than the certification provisions of AS 42.05.221 -- 42.05.281,

unless 25 percent of the subscribers or subscribers representing 25 percent of the gross revenue of the utility petition the commission for regulation.

(j) The provisions of this chapter do not apply to sales, exchanges or gifts of energy to an electric utility certificated under AS 42.05.010 — 42.05.721 when the energy which is the subject of the sale, exchange or gift is waste heat, electricity, or other energy which is surplus or the by-product of an industrial process. In an area in which no electric utility is certificated for service, energy provided by sale, exchange or gift may be provided to any utility which is certificated for service to that area. A contract for the sale, exchange or gift of energy exempt under this subsection does not make the supplier a public utility, and does not transfer the responsibility to provide utility services from a certificated utility to any other person. (§ 6 ch 113 SLA 1970; am § 3 ch 76 SLA 1973; am § 8 ch 83 SLA 1980; am §§ 7-9 ch 136 SLA 1980; am § 89 ch 59 SLA 1982)

Revisor's notes. — As enacted by chs. 83 and 136, SLA 1980, present subsections (j) and (i) were designated as subsections (f) and (j), respectively, but were redesignated by the revisor of statutes pursuant to AS 01.05.031(b). Former subsection (i) of this section was transferred as § 13, ch. 136, SLA 1980 to the 1980 Temporary and Special Acts and Resolutions by the revisor of statutes pursuant to AS 01.05.031(b).

Effect of amendments. — The first 1980 amendment added subsection (j).

The second 1980 amendment deleted "excepting the furnishing of collection and disposal service of garbage, refuse, trash or other waste material" following "none of whose utilities" near the beginning of subsection (b), deleted the former second sentence in subsection (b), which read: "Notwithstanding any other provisions of this chapter, municipalities providing collection and disposal service of garbage, refuse, trash or other waste material within their corporate boundaries are not subject to regulation by the Alaska Public Utilities Commission unless the municipality elects to be subject to the provisions of this chapter," substituted "\$50,000" for "\$25,000" following "does not gross" near the middle of subsection (e), substituted "under this chapter" for "hereunder" following "exempt from regulation" near the middle of subsection (e), and added subsections (f) through (i).

The 1982 amendment, effective May 28, 1982, deleted "on June 30, 1980" preceding

"a utility," and inserted "annual" preceding "gross revenue" in subsection (i).

Editor's notes. — Section 13, ch. 136, SLA 1980, as revised by the revisor of statutes, provides: "Cable television systems are exempt from the provisions of AS 42.05 [AS 42.05.010 — 42.05.721], other than the provisions of AS 42.05.221 — 42.05.281, until July 1, 1983. This exemption does not apply in cities or villages which have a population of less than 3,500 people and which are not located on a state road or marine highway. The effects of the exemption of cable television systems from rate regulation by the Alaska Public Utilities Commission provided in this section shall be reviewed by the legislature before July 1, 1983. If the legislature fails to extend the exemption before July 1, 1983, this section is repealed on that date and cable television systems lose their exempt status on that date and become subject to regulation by the Alaska Public Utilities Commission."

Opinions of attorney general. — An electrical utility owned and operated by a regional electrical authority would continue to qualify for the broad exemption from this chapter, available to political subdivisions under subsection (b) of this section once the regional electrical authority had completed its proposed organization as a nonprofit corporation pursuant to AS 10.20.005 et seq. June 7, 1976, Op. Att'y Gen.

Municipally owned
petition with other uti
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Sec. 42.05.712.
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(b) The votes of
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(c) Each subscri
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(d) A ballot
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(e) The re
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(f) During
section a li

- ① Not allow elected assembly to change the length of ~~the terms~~ terms by ordinance
(ps. 42 & 43 29.20.150)
- ② Allow longer than 6 months to challenge the legality of the formation of a new municipality
(ps. 10 29.05.150)
- ③ Establish time limits in Bystatute statute for LBC actions

— Annexation and Detachment procedures should be equal and regulations should reflect this.

— The first consideration should be ~~at~~ ^{the} wishes of the local residents

— The burden of proof should be on the municipality

Limit Spending or Taxation by Initiative

Home Rule - Munic. Corp. & Polit Subd.
all powers not prohibited by law or Charter
(or unified)

General Law - Only has powers designated by law
(? *Liberate vs. Bristol Bay Borough - Taxation*)

Class 1, 2, 3 Borough
Class 1, 2 Cities



Official Business

Alaska State Legislature

Senate

MEMORANDUM

Pouch V
State Capitol
Juneau, Alaska 99811

TO: Senator Rick Halford
Senate Community & Regional
Affairs Committee

FROM: McKie Campbell
Staff Member

SUBJECT: SB 1 Wording

In the course of reviewing SB 1, technical wording problems have been found. Legal Services will correct these problems as a matter of course when they next have the bill. None of these changes will alter the effect or intent of the affected sections, however, they are listed below for your information.

Pg. 8, line 26, after "council" insert:

"of a first class city."

Pg. 29, line 8, after "commission" insert:

"of seven elected members"

Pg. 29, line 14, after "be" insert:

"prepared by the petitioners and"

Pg. 63, line 26:

delete "bill" and replace with "ordinance"

delete "act", and replace with "ordinance"

Pg. 64, line 15:

delete "bill" and replace with "ordinance"

Pg. 106, line 9, after "calculate" insert:

"at the rate of one percent per mill"

Pg. 106, line 10 and 11, delete:

"at the rate of one percent per mill"



Official Business

Alaska State Legislature

Senate Committee on Community & Regional Affairs

Pouch V
State Capitol
Juneau, Alaska 99811


LETTER OF INTENT TO CSSB 1

February 24, 1983

It is the intent of the Senate Community and Regional Affairs Committee that the assumption of the education power by newly formed or upgraded first class or home rule cities be dependent upon a vote in the existing Regional Education Attendance Area. If the vote both within the city and in the remainder of the REAA was not in favor of the city assuming the education power, it would not.

This Letter of Intent was discussed and unanimously approved by the Senate C & RA Committee. The attached page labelled "Proposed Amendment #10" is what the committee members had in front of them when the Letter of Intent was endorsed. The longer attached amendment, drafted by Legal Services, represents all of the actual changes that need to be made to SB 1 to carry out the Letter of Intent.

Though the committee strongly endorses this concept it was felt the full amendment should be available for review before it was adopted, which is why this method of presentation was followed. The Community and Regional Affairs Committee urges the Finance Committee to incorporate the intent of the attached proposed Amendment #10 into SB 1.



Senator Frank R. Ferguson
Chairman

A M E N D M E N T

Offered in the SENATE

By the Community and Regional

TO: CSSB 1 (C&RA)

Affairs Committee

Page 2, after line 25 insert:

"(f) A second class city in a regional educational attendance area that reclassifies to first class status after July 1, 1983 remains part of the regional educational attendance area unless the education power is acquired under AS 29.35.270."

Page 10, after line 18 insert:

"(d) A first class or home rule city in a regional educational attendance area that incorporates after July 1, 1983 remains part of the regional educational attendance area unless the education power is acquired under AS 29.35.270."

Reletter the following subsection accordingly.

Page 34, after line 20 insert:

"(36) AS 29.35.270. (acquisition of education power)"

Renumber the following paragraphs accordingly.

Page 85, line 23:

Delete "A" and insert "Subject to AS 29.35.270, a"

Page 86, after line 5 insert:

"Sec. 29.35.270. ACQUISITION OF EDUCATION POWER. (a) A home rule or first class city formed in a regional educational attendance area after July 1, 1983 remains part of the regional educational attendance area and may not establish a city school district unless the education power is acquired by the city under this section.

(b) Within 90 days after a community in a regional educational attendance area is incorporated as a home rule or first class city or a second class city in a regional educational attendance area reclassifies to first class status or adopts a home rule charter the director of elections shall conduct an election in the regional educational attendance area on the question of whether the city should acquire the education power and form a city school district.

(c) After an election under this section the vote shall be counted separately within the boundaries of the newly formed city and within the area of the regional educational attendance area outside of the city.

(d) If a majority of voters within the newly formed city and a majority of the voters within the area of the regional educational attendance area outside of the newly formed city approve, the city shall assume the education power and form a school district. If a majority of voters in both areas do not approve, the city remains a part of the regional educational attendance area.

(e) This section applies to home rule and general law cities."

Page 186, after line 6 insert:

"* Sec. 21. AS 14.08.031 is amended by adding a new subsection to read:

(e) A first class or home rule city in a regional educational attendance area that incorporates after July 1, 1983 and a second class city in a regional educational attendance area that reclassifies to first class status or adopts a home rule charter after July 1, 1983 shall be included in the regional educational attendance area boundary unless the city acquires the education power under AS 29.35.270."

Renumber following sections accordingly.

Page 186 after line 29 insert:

"* Sec. 24. AS 14.12.010(1) is amended to read:

(1) each home rule and first class city in the unorganized borough is a city school district, except as provided under AS 29.-35.270;

* Sec. 25. AS 14.12.010(3) is amended to read:

(3) the area outside organized boroughs and outside home rule and first class cities is divided into regional educational attendance areas, except that a home rule or first class city may be included in a regional educational attendance area in accordance with AS 29.35.270."

Renumber following sections accordingly.

Page 205, line 20:

Delete "86" and insert "89"

Page 205, line 23:

Delete "86" and insert "89"

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 14, 1983

SUBJECT: Authority of municipalities to exercise eminent domain outside their boundaries (Work Order No. 13-0792)

TO: Senate Community and Regional Affairs Committee

FROM: Tamara Brandt Cook
Legislative Counsel

TBC

You have asked to what extent a municipality may exercise the power of eminent domain outside its corporate boundaries. The general rule is that a municipality cannot condemn lands that lie within the state but outside of the municipal boundaries unless the power has been delegated by the legislature. The legislature may delegate this power expressly and, in some cases, the power has been implied to exist in the absence of express delegation. However, unless there is an express delegation to a municipality of the power to exercise eminent domain outside municipal boundaries, the issue may not be clear. The better rule is that if a municipality has the power to construct a facility outside its boundaries and if the municipality could exercise the power of eminent domain in order to construct a similar facility within its boundaries, then the municipality impliedly has the power to exercise eminent domain outside its boundaries in order to construct the facility. McQuillan, Municipal Corporations, Vol. 11, sec. 32.66.

AS 29.73.020 provides that a municipality

. . . may exercise the powers of eminent domain and declaration of taking in the performance of an authorized power or function of the municipality in accordance with AS 09.55.250 - 09.55.460. (Emphasis added)

Under AS 29.48.037 a municipality is authorized to provide various facilities and services outside its boundaries. The two sections taken together appear to be an express delegation of the power of eminent domain which may be exercised outside municipal boundaries to provide certain services and facilities. In any case, since a municipality is able to exercise the power of eminent domain within its boundaries to provide similar services and facilities, it seems clear that the municipality may, by implication, exercise the power of eminent domain outside its boundaries to provide services and facilities that it is authorized by law to provide outside its boundaries.

This conclusion is further strengthened by the fact that under AS 09.55.260 it is not just private property that is subject to be taken through eminent domain. Paragraph (2) provides that property of the state or a municipal division that is not already appropriated to a public use may be taken through eminent domain. Even property that is appropriated to a public use may be taken for a more necessary public use under paragraph (3). A municipality providing an authorized service or facility outside its boundaries could exercise eminent domain to take land belonging to the state or another municipality if that land is necessary in order to carry out the authorized project.

It should be noted municipalities are not the only entities that have been granted the power of eminent domain. The power of eminent domain may be exercised by the Alaska State Housing Authority (AS 18.55.100(a)(6)), regional Native housing authorities (AS 18.55.996(b)), the Alaska Power Authority (AS 44.83.080(15)), regional electrical authorities (AS 18.57.040(15)), electric or telephone cooperatives (AS 10.25.010(8)), and by any utility, whether public or private (AS 42.05.631).

Under SB 1, municipalities continue to be authorized to provide certain services and facilities outside their boundaries and the list of authorized functions has been enlarged under sec. 29.35.020. The limitation upon the exercise of eminent domain by second class cities has been removed, but otherwise the authority of municipalities to exercise eminent domain remains essentially the same under sec. 29.35.030. Under both SB 1 and existing law, a municipality may exercise eminent domain in order to provide a service or facility outside its boundaries if it has been

Senate Community and Regional Affairs Committee
Page 3
February 14, 1983

authorized by law to provide that particular service or
facility outside its boundaries.

TBC:ljb



**ALASKA RURAL ELECTRIC COOPERATIVE
ASSOCIATION, INC.**

6000 C STREET • SUITE C • ANCHORAGE, ALASKA 99502 • (907) 276-3235

January 27, 1983

Senate Community and Regional
Affairs Committee
Alaska State Legislature
Capitol Building
Pouch V
Juneau, Alaska 99811

Gentlemen:

Senate Bill 1 (Municipal Code) contains a serious problem for our association in the utilities section. As introduced, this section would permit municipal regulation of electric and telephone cooperatives which have been exempted from APUC regulation by a vote of their members. This exemption procedure was established by the legislature in 1980, and it has worked satisfactorily since that time.

It is my understanding that Senator Don Gilman has an amendment addressing this problem which was drafted by Lee Sharp and Stuart Hall and later refined by language from Ted Berns. This amendment would resolve our problem, and we urge your approval of this amendment.

Sincerely,

David Hutchens
Executive Director

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

POUCH B
JUNEAU, ALASKA 99811
PHONE: (907) 465-4700

Position Paper

Re: SB 1

Sponsor: Senator Gilman

Program Effects

Title 29 of the Alaska Statute is the Municipal Code by which the cities and boroughs of this state operate. It has been in place for several years and has been amended several times during this period. Consequently it has become antiquated and something of a hodge podge. This bill would update, reorganize and streamline the Title.

Comments

SB 1 does not deal with major policy issues; it is strictly reorganization and updating. The Bill attempts to clear up many of the current ambiguities and contradictions that have been created through the several years of amendments.

The Bill has received large amounts of work by the Community and Regional Affairs Committees of both Houses of the Legislature, the Alaska Municipal League, many of the League's affiliate organizations, and the Department of Community and Regional Affairs.

It has had many public hearings, resulting in many changes and improvements during that process. It is not everything to everybody and does not attempt to solve all municipal problems. What it does do is clean up the Municipal Code both in terms of organization and in terms of content. It is one of the Department's key priorities for passage during this Legislative session.

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- Sec. 29.03.030 - Platting Authority
- Sec. 29.04.010 - Home Rule
- Sec. 29.04.020 - General Law
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- Sec. 29.04.040 - Reclassification of Second Class Cities
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- Sec. 29.04.060 - Reclassification of Third Class Boroughs

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THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 1
 Title "An Act Relating To Municipal Government"
 Requested by Senator Gilman Date 2/1/83

II. FISCAL DETAIL

Agency Affected Dept. of Community & Regional Affairs
 Program Category Affected Development
 BRU, Program, Or Subprogram(s) Affected Local Government Assistance
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	0	100.0	150.0	625.0		

FUNDING (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
GENERAL FUND	0	100.0	150.0	625.0		
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

See Attached

IV. DATE 1/27/83 PREPARED BY Terry Farley

AGENCY Community & Regional Affairs

Original: Legislative Finance PHONE 465-4730

cc: Budget and Management
 Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/82)

OMB Reviewed by: David Gentry

[Handwritten signature: D. Gentry]

FISCAL NOTE
"An Act Relating to Municipal Government"

Article 3 of the Bill appears to be the only portion that has fiscal impact on this Division. That Article "TRANSITIONAL ASSISTANCE" provides for organizational grants to newly formed and newly reclassified cities. These grants are \$50,000 the first year and \$25,000 the second year.

Additionally, the bill provides for organization grants to newly formed Boroughs in the following amounts:

\$300,000 for the first fiscal year
\$200,000 for the second fiscal year
\$100,000 for the third fiscal year

Finally, it provides for the department to establish an initial sales tax structure and an initial property tax structure.

Assumptions: In estimating the fiscal impact of the bill the following assumptions were made.

1. There would be two incorporations or reclassifications each year. This would produce an FY 84 cost of \$100,000.
2. There will be one Borough Incorporation in 1986. This incorporation would necessitate expenditure of the 3 step organization grant in 1986, 1987, and 1988. Based on this assumption it is also estimated that contractual costs for setting up the two tax systems would be \$350,000 in contractual costs spread over a 2 year period.

Chugach Elec. Ass'n, Sup. Ct. Op. No. 1636 (File Nos. 2969, 2993), 550 P.2d 687 (1978); B-C Cable Co. v. City of Juneau, Sup. Ct. Op. No. 2112 (File No. 4587), 613 P.2d 616 (1980).

Sec. 42.05.711. Exemptions. (a) The provisions of AS 42.05.010 — 42.05.721 do not apply to a person who furnishes water, gas or petroleum or petroleum products by tank, wagon, or similar conveyance, unless the person is thereby supplying water, gas, petroleum or petroleum products to a public utility in which he has an "affiliated interest."

(b) Public utilities owned and operated by a political subdivision of the state and none of whose utilities is in competition with any other utility, are exempt from the provisions of AS 42.05.010 — 42.05.721, other than the provisions of AS 42.05.221 — 42.05.281, unless the owner and operator elects to be subject to all provisions of AS 42.05.010 — 42.05.721.

(c) The ownership in whole or part, of the corporate stock of a public utility does not make the owner a public utility.

(d) The commission, on a finding that no legitimate public interest will be served, may exempt a utility from all or any portion of AS 42.05.010 — 42.05.721.

(e) Notwithstanding any other provisions of AS 42.05.010 — 42.05.721, any electric or telephone utility that does not gross \$50,000 annually is exempt from regulation under AS 42.05.010 — 42.05.721 unless 25 percent of the subscribers petition the commission for regulation.

(f) Notwithstanding any other provisions of AS 42.05.010 — 42.05.721, an electric or telephone utility that does not gross \$325,000 annually may elect to be exempt from the provisions of AS 42.05.010 — 42.05.721 other than AS 42.05.221 — 42.05.281 under the procedure described in AS 42.05.712.

(g) A utility, other than a telephone or electric utility, that does not gross \$100,000 annually may elect to be exempt from the provisions of AS 42.05.010 — 42.05.721 other than AS 42.05.221 — 42.05.281 under the procedure described in AS 42.05.712.

(h) A cooperative organized under AS 10.25.010 — 10.25.650 may elect to be exempt from the provisions of AS 42.05.010 — 42.05.721, other than AS 42.05.221 — 42.05.281, under the procedure described in AS 42.05.712.

(i) A utility which furnishes collection and disposal service of garbage, refuse, trash, or other waste material and has annual gross revenues of \$200,000 or less is exempt from the provisions of this chapter, other than the certification provisions of AS 42.05.221 — 42.05.281,

unless 25 percent of the subscribers or subscribers representing 25 percent of the gross revenue of the utility petition the commission for regulation.

(j) The provisions of this chapter do not apply to sales, exchanges or gifts of energy to an electric utility certificated under AS 42.05.010 — 42.05.721 when the energy which is the subject of the sale, exchange or gift is waste heat, electricity, or other energy which is surplus or the by-product of an industrial process. In an area in which no electric utility is certificated for service, energy provided by sale, exchange or gift may be provided to any utility which is certificated for service to that area. A contract for the sale, exchange or gift of energy exempt under this subsection does not make the supplier a public utility, and does not transfer the responsibility to provide utility services from a certificated utility to any other person. (§ 6 ch 113 SLA 1970; am § 3 ch 76 SLA 1973; am § 8 ch 83 SLA 1980; am §§ 7-9 ch 136 SLA 1980; am § 89 ch 59 SLA 1982)

Revisor's notes. — As enacted by chs. 83 and 136, SLA 1980, present subsections (j) and (i) were designated as subsections (f) and (j), respectively, but were redesignated by the revisor of statutes pursuant to AS 01.05.031(b). Former subsection (i) of this section was transferred as § 13, ch. 136, SLA 1980 to the 1980 Temporary and Special Acts and Resolutions by the revisor of statutes pursuant to AS 01.05.031(b).

Effect of amendments. — The first 1980 amendment added subsection (j).

The second 1980 amendment deleted "excepting the furnishing of collection and disposal service of garbage, refuse, trash or other waste material" following "none of whose utilities" near the beginning of subsection (b), deleted the former second sentence in subsection (b), which read: "Notwithstanding any other provisions of this chapter, municipalities providing collection and disposal service of garbage, refuse, trash or other waste material within their corporate boundaries are not subject to regulation by the Alaska Public Utilities Commission unless the municipality elects to be subject to the provisions of this chapter," substituted "\$50,000" for "\$25,000" following "does not gross" near the middle of subsection (e), substituted "under this chapter" for "hereunder" following "exempt from regulation" near the middle of subsection (e), and added subsections (f) through (i).

The 1982 amendment, effective May 28, 1982, deleted "on June 30, 1980" preceding

"a utility," and inserted "annual" preceding "gross revenue" in subsection (i).

Editor's notes. — Section 13, ch. 136, SLA 1980, as revised by the revisor of statutes, provides: "Cable television systems are exempt from the provisions of AS 42.05 [AS 42.05.010 — 42.05.721], other than the provisions of AS 42.05.221 — 42.05.281, until July 1, 1983. This exemption does not apply in cities or villages which have a population of less than 3,500 people and which are not located on a state road or marine highway. The effects of the exemption of cable television systems from rate regulation by the Alaska Public Utilities Commission provided in this section shall be reviewed by the legislature before July 1, 1983. If the legislature fails to extend the exemption before July 1, 1983, this section is repealed on that date and cable television systems lose their exempt status on that date and become subject to regulation by the Alaska Public Utilities Commission."

Opinions of attorney general. — An electrical utility owned and operated by a regional electrical authority would continue to qualify for the broad exemption from this chapter, available to political subdivisions under subsection (b) of this section once the regional electrical authority had completed its proposed organization as a nonprofit corporation pursuant to AS 10.20.005 et seq. June 7, 1976, Op. Att'y Gen.

Municipally owned utility petition with other utilities to full gamut of regulation to other utilities, v

Sec. 42.05.712. I which may elect to 42.05.721 shall pol scribed in this secti

(b) The votes of a least 15 percent of are required for a u this section.

(c) Each subscri receive notice of ar service at least 60 shall contain imp bers that an electi Alaska Public Ut that a ballot to pa to each subscrib regular bill for se member of the co regard to whethe and that the ball within 30 days subscriber or me one or more pub subscribers or n meetings shall mailed or distr satisfy this req the agenda of a be held not mo

(d) A ballot each subscribe service and eh "Shall . . . regulation

(e) The res the commissi to the subscri

(f) During section a list

Assigning SB 98 to Halford

Reassigning SB 89 to Halford

SB 90 to Halford



THE CITY AND BOROUGH OF JUNEAU

CAPITAL OF ALASKA

155 SOUTH SEWARD ST. JUNEAU, ALASKA 99801

February 8, 1983

Senate Community and
Regional Affairs Committee
Juneau, Alaska

File: Legislature - 1983 - Senate Bill 1

Gentlemen:

Please consider the following recommendations in your deliberations on Senate Bill 1.

On page 42, line 22, insert the phrase "charter or" immediately before the word "ordinance." In at least one community, and possibly others, this matter is dealt with by a charter provision rather than by ordinance.

On page 56, beginning at line 25, I suggest that lines 25 through 29 be deleted along with the reference to this section under the home rule laundry list at line 17 on page 23. Alaska Statute 36.25.025 applies to all municipalities whether home rule or general law. If a home rule municipality wishes to exempt its contractors from those provisions it must do so in accordance with the procedures set out in AS 36.25.025. Those procedures clearly specify the use of an ordinance to establish the exemption.

Page 76, line 17. Although this is the language used in the present law, I think it is inartful. Municipalities do not exercise the right of eminent domain merely to determine fair market value. Eminent domain is used to acquire property. The determination of fair market value is merely one of the incidences of acquiring property through the use of eminent domain. I suggest the phrase "determine fair market value" which starts in line 16 be deleted and replaced with the phrase "acquire the certificate, equipment and facilities of the carrier, or that portion of the certificate that would be affected".

Page 78, beginning at line 25 and extending through line 8 on page 80. I think this entire section is unneeded. The authority for a municipality to enter into a joint agreement for the exercise of one of its powers or functions with other municipalities, the state and the federal government is found in Section 13 of Article 10 of the Alaska Constitution. The subject section in the Bill just provides unnecessary details. It is my recollection that this section was included in the revision because it was adopted either while the Title 29 Revision Committee was revising Title 29 or shortly after the committee produced its revision. It was incorporated in the revision without substantive review. We do not have provisions in the code detailing the procedures for entering into joint

Senate Community and
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Page Two

agreements with the Forest Service for fire protection of rural properties of mutual concern, or for joint state, federal, and local drug enforcement operations or for a host of other municipal functions which are exercised jointly or in cooperation with state or federal agencies or other municipalities. I strongly suggest that this section be eliminated as it is not only superfluous, but its existence may lead courts to two unfortunate conclusions; first, that the only way municipalities may engage in a cooperative or joint emergency service communication center is as provided in the subject section; and second that inasmuch as the legislature went to great pains to detail the procedures and structures for joint operation of emergency communication centers, other similar joint operations must have specific and detailed legislative authorization. It was for these types of reasons that the technical committee for the Title 29 revision recommended striking or generalizing such detailed procedures found in the present Title 29. If there is some feeling that striking this section would jeopardize the authority of municipalities to enter into such arrangements, I suggest the section be struck and replaced with a new section under the general powers portion of the Bill which would authorize a municipality to enter into an agreement or association, including membership in a corporation, with any other municipality, the state, or federal agencies, for the purpose of exercising any power or function of the municipality.

Page 96, beginning at line 5. Subsection (c) of this section makes subsections (a) and (b) applicable to all home rule municipalities. Actually, there appears to be little need to have this apply to any home rule municipality; however, because subsection (a) deals with the different disposition of a vacated public square depending on whether the square is within a city or outside a city but within the borough, it may be appropriate to make subsection (a) applicable only to home rule boroughs and general law municipalities. In addition, the last sentence of subsection (a) which begins in line 17 could lead to some very awkward situations. If, in the original plat, a lot is dedicated as a holding area for storm waters, or as a park or for some other non-street use and is later vacated because the lot is no longer needed for that purpose it may be very difficult to determine who is the "rightful" owner; and if this "rightful" owner is someone other than the abutting property owners, it may be impossible to locate the owner. I suggest deletion of the sentence which begins on line 17, and in line 14, just before the word "public" the insertion of the phrase "lot or".

Page 105, beginning at line 7. I don't think that the definition of "developed" clarifies anything. For example, when a native corporation subdivides some of its property and puts in roads and

Senate Community and
Regional Affairs Committee
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Page Three

utilities, that would seem to be "developed" under the common use of that word; however, this definition casts serious doubts as to whether such land would be developed for tax purposes. Lines 19 and 20 establish a situation which is contrary to the subdivision laws and will create problems if there is a tax foreclosure on non-exempt land. Unless I read this part of the section incorrectly, its intent is to limit the loss of the exemption to only that portion of the parcel which is developed. That is, if the corporation owns a U.S. Survey consisting of 25 acres and it develops three acres of that parcel with an industrial park, only the three acres would be taxable. The problem this approach creates is that if the municipality forecloses on the property it must foreclose on the parcel of record; that is, the 25 acre parcel and not some lesser parcel. If it were to foreclose on a parcel other than a parcel of record, the foreclosure proceeding would have the effect of subdividing the property without going through the platting procedure. Therefore, I suggest that the language relating to the loss of the exemption to the smallest practicable tract be deleted. The corporation may protect its remaining property by subdividing the parcel into two lots; one which will be developed and will lose its exemption, and one which will not be developed. This will protect the undeveloped property.

Page 106, beginning at line 1. I suggest you consider deleting this section (n) as municipalities are already going to have a difficult enough time determining when an exempt property is "developed." To foist on it the burden of also determining if the property has subsequently become "undeveloped" is merely adding more situations for conflict between the municipality and certain of its property owners. Once property becomes taxable because it is put to productive use, is there any real reason it should not remain taxable even though the productive use may cease?

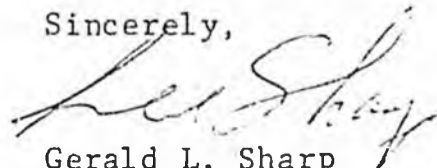
Page 107, lines 24 through 28. I believe this section should be rewritten to eliminate the now superfluous reference to excluding personal property from taxation as this is now included as a specific power for all municipalities in line 22 above. I also believe the reference to extending the redemption period should be deleted as it has nothing to do with exemptions. It also appears that this language contemplates some sort of system of partial redemption of property. If you believe this is an appropriate option for municipalities, I suggest that it should be placed in the section of this chapter which deals with foreclosure and redemption.

Page 109, beginning at line 19. You may want to consider whether to leave greenhouses under this section. Exempting greenhouses does not fit at all with the policy or purpose of the special

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February 8, 1983
Page Four

procedure used to determine the value of farm or agricultural land for tax purposes. That purpose is to assist the owner of farm or agricultural land in resisting the pressures of urban growth so that he or she can afford to continue farming rather than being forced to subdivide farm land because of inflated land values. Note that only the farm land receives the special treatment, not improvements to the land such as barns, sheds, irrigation systems, etc. However, with greenhouses, the greenhouse, that is the improvement, also receives the special valuation. The effect of the addition of greenhouses to the existing farm land section results in special tax treatment for commercial greenhouses which raise dieffenbachia and cactus to be sold for use in hotel and office lobbies and to adorn file cabinets and kitchen windows. It has been my understanding that the special tax treatment for farm land was to help the industry which provides us with food to keep the price of this basic need to a minimum. Extending such special treatment to greenhouses which exist for the purpose of raising ornamental plants does not seem to fall within this lofty purpose. I believe the committee should consider incorporating the existing Title 29 language in this section by deleting the changes that were made to incorporate greenhouses.

Sincerely,



Gerald L. Sharp
City-Borough Attorney

GLS:jr

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STATE OF ALASKA

Bill Sheffield, Governor .

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

POUCH B
JUNEAU, ALASKA 99811
PHONE: (907) 455-4700

Position Paper

Re: SB 15

Sponsor: Senator Gilman

Program Effects of Bill

Makes a \$28,000,000 appropriation to fund water, sewer and solid waste facility construction under a Department of Environmental Conservation program (AS 46.03.030).

Comments

This supplemental appropriation will fund the State's matching requirement for the construction of local water, sewer and solid waste disposal facilities. The Public Facilities Construction Program has been one of the most effective capital support programs for local communities. Project funds are not set aside until engineering and costing studies are complete and local financing for construction, maintenance and operation. Thus completed projects are well planned and are financed for their full life cycle.

POSITION PAPER ON SENATE BILL 15
by the
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
Before the
SENATE COMMUNITY REGIONAL AFFAIRS COMMITTEE
January 25, 1983

Senate Bill 15 provides for a \$28.0 million supplemental appropriation to the Department of Environmental Conservation for municipal grants to construct water, sewage, and solid waste facilities. As you are aware, the Department, as authorized by AS 46.03.030, awards these grants at a current 50 percent match to incorporated municipalities.

This program did not receive funding last year due to the veto of the proposed bond proposition by Governor Hammond. In fact, the program has been essentially out of funds since January 1982. At the present time there is a significant number of projects ready for construction this summer for which no funding is available. A list of the projects we are familiar with that are of high priority and are ready to proceed is attached for your information.

Since the normal capital budget process will likely result in an appropriation too late in the construction season to allow any but the smallest of these projects to be constructed this summer, the Department favors an immediate supplemental to avoid adding another year's inflation to the construction costs.

Although we have provided a list of priority projects we feel are ready to proceed this summer, we respectfully request they not be named in the appropriation bill. Variability in local government funding priorities will certainly result in some of these projects being abandoned. If the appropriation does not list the specific projects, the Department will have the flexibility to move unused funds to other projects.

Thank you for the opportunity to comment. I will be happy to respond to any questions you may have.

<u>Project</u>	<u>Grant Request</u>
<u>ANCHORAGE</u>	
1. Brown LID 121 S81(20)	\$ 103,000
2. Stella LID 133 S81(22)	107,900
3. Library LID 131 S81(23)	301,200
4. Abbott Loop Manor LID 132 S81(26)	292,700
5. Shackleton LID 79 S82(1)	70,500
6. Alpine Village LID 135 S82(2)	238,200
7. Zodiac LID 85 S82(3)	60,300
8. Windemere Upgrade S82(8)	28,700
9. W. 44th Sewer Extension S82(9)	34,600
10. C-3 Trunk - North of Sand Lake S82(10)	150,900
11. Knik Interceptor CMP Upgrade S82(11)	529,600
12. Zurick LID 137 S82(12)	117,900
13. Rosewood LID 138 S82(13)	140,200
14. Juanita Loop/Santa Maria Drive S82(14)	369,500
15. A/B Street E. 56th Extension S82(16)	8,200
16. Dowling Road/New Seward to Petersburg W81(13)	101,000
17. Broadmoor Estates Upgrade W82(9)	14,000
18. Barbara Street Extension W82(10)	55,200
19. 10-11 Alley "N" to "P" Street Upgrade W82(11)	22,000
20. Manor Street Upgrade W82(13)	23,400
21. W. 44th Place Extension W81(15)	25,700
22. Abbott Loop 30" Tudor to 63th W82(16)	537,300
23. Juanita Loop/Santa Maria Drive W82(17)	300,800
24. Atkins WID 316 W82(18)	19,400
25. 10 MG Reservoir Grant Increase W80(6)	360,000
26. Eagle River System Inter-ties	220,000
27. C-5-2 Trunk	264,000
28. S.E. Interceptor/Roy to Huffman	1,250,000
29. West Interceptor, Phase II	2,125,000
30. Distribution Reservoir Eagle River	130,000
31. Production Well #14	130,000
32. Chugach Way/Arctic to Spenard Road	136,000
33. Woodstave Line Replacement	153,000
34. 3th Avenue Diversion Upgrade	37,500
35. Spruce Street/Lore Road to 63th Avenue	128,000
36. 20th Avenue Ease of Lake Otis	40,000
37. Lake Otis/Abbott Road to O'Malley	375,000
38. E-4A Trunk	240,000
39. E-4C Trunk	216,000
40. S.E. Interceptor, Huffman to DeArmaoun	600,000
<u>ANIAK</u>	
41. Community Sewer System	\$ 500,000

Project

Grant Request

BRISTOL BAY BOROUGH

42. Naknek Sewage Facility 574,300

CORDOVA

43. Morpac Parallel Water Line \$ 60,000
44. Power Creek Booster Station 400,000
45. Small Boat Harbor Water Line 221,300

FAIRBANKS

46. Sludge Disposal Facility, Phase II 137,500
47. NE Water Transmission 1,980,000

HAINES

48. Mud Bay Road Water Line 35,000
49. 4th Avenue & Mathias Water Line Improvements 40,000

HOMER

50. Cooper S/D 285,000
51. Mattox Water and Sewer 62,500

HOUSTON

52. Houston Sanitary Landfill 70,000

HYDABURG

53. Water and Sewer Upgrade 2,250,000

JUNEAU

54. Salmon Creek Connection 1,050,000

KAKE

55. Water Supply Tank 125,000

KENAI

56. Candlelight/Lindwood/Aurora 535,000
57. Evergreen/Haller Water and Sewer 700,000

KENAI PENINSULA BOROUGH

58. Ninilchik Landfill 100,000

	<u>Project</u>	<u>Grant Request</u>
	<u>KETCHIKAN</u>	
59.	Mental Health Water and Sewer	34,600
60.	Hawkins - Carlanna	90,700
61.	Heath Addition	196,700
62.	Washington Park Addition	303,500
	<u>KETCHIKAN PUBLIC UTILITIES</u>	
63.	Fairview-Jackson Water	\$ 161,600
	<u>NOME</u>	
64.	Phase II Water and Sewer (Belmont Pt.)	307,500
65.	Phase II Water and Sewer (Water Reservoir)	500,000
	<u>NORTH POLE</u>	
66.	Water Treatment	780,200
	<u>PETERSBURG</u>	
67.	Water Storage Facility	294,000
	<u>SAND POINT</u>	
68.	Meadows S/D, Phase I	1,867,300
	<u>SCAMMON BAY</u>	
69.	Water and Sewer	111,000
	<u>SEWARD</u>	
70.	Terminal Addition Water and Sewer	1,562,700
	<u>SITKA</u>	
71.	Solid Waste Disposal System	1,750,000
	<u>SOLDOTNA</u>	
72.	Redoubt Avenue Water and Sewer	187,600
73.	Water Reservoir and Transmission	750,000
74.	Wilson Lane Water and Sewer	11,000
75.	Binkley Street Water and Sewer	74,500
	<u>UPPER KALSKAG</u>	
76.	Water and Sewer System	250,000

Project

Grant Request

VALDEZ

77.	North Harbor/Kennicot/South Harbor Dr. W & S	650,000
78.	Landfill Improvements	100,000
79.	Old Landfill Reclamation	51,000

WASILLA

80.	Water Utility Extension	60,600
81.	Sewer Utility Extension	60,600

WRANGELL

82.	Evergreen Water and Sewer Extension	<u>1,046,000</u>
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TOTAL ALL PROJECTS	<u>\$30,149,400</u>
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Alaska MUNICIPAL League

TELEPHONES
(907) 586-1325
586-6526

204 N. FRANKLIN ST.
JUNEAU, ALASKA 99801

AML 1983 POLICY PRIORITIES

Municipal Supplemental. The League supports the supplemental appropriation of (a) \$25.1 million FY 83 Municipal Assistance revenues to fully fund the entitlement at the amount had not the method of taxation of the petroleum industry been changed during the 1981 state legislative session; and (b) \$3.5 million FY 83 Section 89 State Revenue Sharing for roads, health facilities and hospitals, and volunteer fire departments to fully fund the entitlement at the level authorized by state statutes. The League further encourages the Legislature to appropriate and the Governor to approve the aforementioned supplemental appropriation by April 15, 1983 so that local governments can use the additional funding in setting their 1983 mill levies.

Educational Supplemental. The League urges the approval of a \$33.7 million education supplemental for FY 83 because of costs connected with the state take-over of BIA schools, unprecedented increases in school population throughout the state, and unanticipated reductions in the public school foundation program funding last year, and urges the approval of a \$12 million supplemental to fund the shortfall in the school construction reimbursement fund.

Consolidation of Municipal Assistance and Revenue Sharing. The League endorses the consolidation of the current Municipal Assistance and State Revenue Sharing programs with adequate and predictable funding so that municipalities can continue to provide important needed services while holding down local taxes.

Water/Sewer/Solid Waste Construction Grants Program. The League strongly endorses the concept of the state paying at least 75% for sewerage, solid waste facilities, and water systems constructed by municipalities under the State of Alaska Construction Grants Program and that the replacement of out-moded systems be grant eligible in the same manner as the installation of the new systems. The League strongly supports appropriation levels to meet statewide needs, including a supplemental appropriation of \$28 million.

Fiscal Notes/State Mandates. The League supports enactment of legislation requiring preparation of notes assessing the fiscal impact on local governments of any proposed bill or regulation, including pass-through grants. The League urges passage of legislation which would require the state to reimburse municipalities for costs they incur in programs or activities mandated by the State of Alaska.

SB 17

SB 21

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SB 15

CRITERIA SYSTEM

1. Public Health Benefit Received (Points will be scored from no more than one of the items listed under this criteria (1.A.1. - 1.D.)

A. Health hazards alleviated (problem must be sufficiently reduced by this project to remove it from this category).

POINTS

- | | |
|---|-----|
| 1. Existing hazard, documented by Department as capable of causing injury, serious illness, or death to humans. | 200 |
| 2. Potential hazard which could result in injury, serious illness, or death to humans in the near future. | 100 |

B. Water quality problems alleviated.

- | | |
|--|-----|
| 1. Existing problem documented by Department as causing serious water quality violations adversely affecting health or welfare of humans or animals. | 100 |
| 2. Existing problem, documented by Department as causing water quality violations not directly affecting health of humans or animals. | 50 |

C. Water supply problems alleviated.

- | | |
|---|-----|
| 1. Community water provided to supply good quality water, replace poor quality water, or to prevent interruption of supply. | 100 |
|---|-----|

D. Other environmental problems alleviated (wind blown litter, obnoxious odors, etc.) 30

2. Local funding source

<u>Percent Local Funding</u>	<u>Points</u>
50% or greater	100
At least 25% but less than 50%	70
At least 10% but less than 25%	40
Less than 10%	10

3. Grant will be used to match federal funds 50

4. Population benefitted

Points for projects benefitted

	<u>Existing Population</u>	<u>New Development</u>
More than 10,000	150	50
3000-9999	120	40
1000-2999	90	30
Less than 1000	60	20

	<u>Points</u>
5. This project involves both water supply and sewerage constructions.	50
6. <u>Grant funds requested</u>	
0--\$500,000	70
\$500,000--\$2,000,000	50
More than \$2,000,000	30
7. This project is part of an overall project which is composed of more than one phase. At least one other phase has been completed, and the current project phase is necessary to complete the overall project.	50
8. <u>Part of system affected</u>	
Project will add an integral part which improves performance of system rather than extending a system to increase capacity.	50
9. <u>Segment of population benefitting</u>	
More than 90% of project directly benefits residential or commercial users (not industrial or fire flow).	100
More than 60% (but less than 90%) of project directly benefits residential or commercial users.	50
More than 30% (but less than 60%) of project directly benefits residential or commercial users.	30
10. Project needs to be built in conjunction with other projects, such as road paving.	100
11. Project is part of a comprehensive development plan.	30

Local priority will be used to differentiate between local projects having an equal number of total points. If relative rankings of local projects, based upon total points, differs from local priority ranking, the differences will be negotiated with the responsible local authorities.

Readiness to proceed will be used as a criteria for separating projects into two groups.

- 1) If the grantee will be ready to proceed with construction on the project by July 1, 1983, it will be placed on list 1.
- 2) If the grantee will be ready to proceed with construction on the project by July 1, 1984, it will be placed on list 2.