

ALASKA LEGISLATURE COMMITTEE FILES 1900-1900 00/2

3837 SCRA LOCAL BOUNDARY COMMISSION: NORTH SLOPE



RECORDS CERTIFICATION



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James O. Smith
Signature of Camera Operator

10/31/89
Date

Local
Boundary
Commission

- North Slope

2/11/86

Joint CoRA Meeting

Curran filed lawsuit because of Rubini and Greist --
conflict of interest - Greist resigned when
suit filed.

(Decision made before petition filed)

other lawsuit - open meetings law

Allow for compensation - would modify decision

Gruenberg - Give me copy of Judge Jones
decision in removing Rubini.
Preliminary injunction issued - final decision to
be issued.

Hensley Others would ~~to~~ ^{have} come but couldn't get out
of Kotzebue.
problem because of family relationships, cultural
ties, - Did everything we could to work it
out.

Pg 2

North Slope Borough Boundary was a mistake - I have always seen it as a mistake - 68° parallel, but had nothing to do with culture or traditional use, etc. - I drew boundaries myself for NANA Region - There were no hearings for North Slope Borough boundaries - - one in Anchorage and one in Barrow - that was it.

Statutes are silent on whether or not there has to be compensation - but I would not think we would have to bear any settlement (we being NANA)

"I don't see anything that has been wrong w/ the process."

If process delayed, may not have an opportunity to form borough.

Allegations of conflict of interest -- don't see any -- chagrined when a day before decision, LBC had council, but DCRA had no council --

Bert Geist was like legislator - had an interest in something before him

P93

Jeff Smith

Reason Coor took action he took:
only way to bring issue to public forum
was to petition for detachment —
Did not see this as a public process —

Actual hearing process was not expedited.
Action would stack up against any
other public action!

Don't confuse compensation with ~~distrub~~
distribution of assets and/or liabilities.

In hindsight — we saw that technically the
LBC should have initiated the petition —
but we had already done it and we
kept the petitioner (Dept) and the LBC
separate.

Mayor of

Agassiz - City passed resolution
disapproving detachment

Chairman of WMA Region
born in Webster

lived in Agassiz 10 yrs

8,200 people
11 communities, only 2 had
hearings

Anna Morake - Thuisant

We have used that region for a long time, my relations
are buried there.

Recently we didn't have meeting

We did have meeting, millions and millions
of meetings, both in Killik River

Barrow

Arnold Brown, Jr -
"Willie should cover himself up this time
He won't make enough money to pay administrative
expenses - state will pay 90% of mine expenses.
They should look at what will happen to
boundaries of surrounding Native regions

P95

Jack Schaeffer

→ Hensley -

Twice I was hung up on when I was testifying via telephone when teleconference was being held in Kotzebue - Al Adams was answering questions and he hung up on me - I was trying to discuss environmental issues

Willie Goodwin

traditional use - over 40 traditional verification uses were filed when putting in info for right to Region boundaries.

For this one time would like to ask Leg to do nothing about our problem.

Marie Green - Northwest Arctic Borough

traveled and met w/ 11 villages -

much interest in forming boro

730 signatures asking for boro

Will be traveling next week w/ staff to villages for informational meetings on Boro formation.

Page
Bellisw

LBC

"It was not inordinately quickly done."

Precedent issues: Asked to hear from all boro's - held meeting - no one came only 2 opposed what ~~to~~ we were doing

Each issue is considered separately
We will not consider this as precedent setting.

Hanson

- We heard nothing new today - all of this has been considered in ~~our~~ our decision process.
No mood to take land away from boro's.

"I am proud of this process -- doubt if we would have spent more time if this had been spread out over a year."

"We have a great deal of independence and no bias."

Conyon

On pending lawsuits,



Official Business

Alaska State Legislature

Senate

Committee on Community and Regional Affairs

Senator Edna DeVries, Chairman
Members
Senator Ferguson, Vice Chairman
Senator Coghill
Senator Sturgulewski
Senator V Fischer

Pouch V
Juneau, Alaska 99811

February 11, 1986 -- Rm 17, Capitol

Joint Senate/House C&RA Committee Meeting, Rep Goll, Chairing

Public Hearing on the North Slope Borough detachment issue

Teleconference sites on line for listening and comment:
Barrow, Kotzebue, Anaktuvuk Pass, Atkasuk, Nuiqsut, Point
Hope, Point Lay, Wainwright, Tahatala (?), Fairbanks (at their
request), Wrangell (for LBC Member Jo Anderson)

---CONFERENCE MODERATOR REQUESTS TIME AT BEGINNING OF MEETING
TO POLL EACH SITE IN ORDER TO ASCERTAIN NUMBER OF PERSONS
WISHING TO TESTIFY --- It is hoped that each person wishing
to testify will be able to---in view of the fact that tele-
conference bridge will be needed for another teleconference
at 5:30p; and further, teleconference facilities are not
available for continuing this hearing tomorrow.

KBRW Radio, Barrow -- will be taping teleconference.

AGENDA

- I. Public Hearing
- II. Committee Discussion/Action

Attached material:

- 1) Data on proposed Chugiak-Eagle River Borough
- 2) Data on petition for detachment from the Matanuska-Susitna
Borough
- 3) Ltr w/attached Resolution from City of Cordova
- 4) Copy of Petition from North Slope Borough residents
- 5) Ltr from Interior Energy Corp in opposition to North Pole
annexation

FEBRUARY 10, 1986

BY: HAROLD J. CURRAN
NORTH SLOPE BOROUGH ATTORNEY

D R A F T

CHAIRPERSONS EDNA DEVRICE, PETER GOLL AND MEMBERS OF THE SENATE AND HOUSE COMMUNITY AND REGIONAL AFFAIRS COMMITTEES. I AM HAROLD CURRAN. THE NORTH SLOPE BOROUGH ATTORNEY - THE NORTH SLOPE BOROUGH MAYOR, GEORGE AHMAOGAK, SR. HAS DIRECT ME TO PRESENT THE BOROUGH'S VIEWS AND THE VIEWS OF ITS RESIDENTS TO YOU TODAY.

I HAVE BEEN THE NORTH SLOPE BOROUGH ATTORNEY SINCE 1981, THE SAME YEAR I MOVED FROM ANCHORAGE TO BARROW. I SPEAK TO YOU TODAY NOT ONLY AS THE NORTH SLOPE BOROUGH ATTORNEY, BUT AS A MEMBER OF THE NORTH SLOPE BOROUGH GOVERNMENT AND AS A LONGTIME RESIDENT OF THE NORTH SLOPE.

ON NOVEMBER 22, 1985, THE COMMISSIONER OF COMMUNITY AND REGIONAL AFFAIRS PETITIONED THE LOCAL BOUNDARY COMMISSION TO DETACH IN EXCESS OF 2 MILLION ACRES FROM THE NORTH SLOPE BOROUGH'S JURISDICTION ON THE CONDITION THAT A NANA REGION BOROUGH BE FORMED, INCLUDING THE DETACHED AREA. THIS IS THE ONLY TIME A PETITION HAS BEEN FILED BY THE OFFICE OF THE COMMISSIONER.

LESS THAN 60 DAYS LATER, ON JANUARY 19, 1985, THE LOCAL BOUNDARY COMMISSION APPROVED THE PETITION WITHOUT MODIFICATION.

DURING THIS EXPEDITED REVIEW THE OFFICIALS AND RESIDENTS OF THE NORTH SLOPE BOROUGH HAVE PROGRESSIVELY FELT CONCERN, DISAPPOINTMENT AND FRUSTRATION.

IN OCTOBER OF LAST YEAR THE NORTH SLOPE BOROUGH RECEIVED NOTICE THAT THE COMMISSIONER WAS CONSIDERING A PETITION THROUGH A NEWSPAPER ARTICLE ON THE SUBJECT. THE COMMISSIONER HAD MET WITH REPRESENTATIVES OF THE NANA REGION WITHOUT NOTICE TO THE NORTH SLOPE BOROUGH OR A REQUEST OF THE NORTH SLOPE BOROUGH FOR ANY INFORMATION CONCERNING THE DECISION.

THE NORTH SLOPE BOROUGH REQUESTED THE COMMISSIONER TO OPEN UP HIS DECISION MAKING PROCESS AND MAKE IT PUBLIC. HE PERSONALLY MET WITH NSB OFFICIALS AND CONSIDERED THE BOROUGH'S INPUT, BUT DID NOT PUBLICLY NOTICE MEETINGS OR HIS DECISIONS.

DURING NOVEMBER AND DECEMBER THE LOCAL BOUNDARY COMMISSION ADDRESSED THE ISSUE OF AN EXPEDITED REVIEW OF THE PETITION. THE NORTH SLOPE BOROUGH OPPOSED AN ACCELERATED SCHEDULE BECAUSE IT UNDERMINES ADEQUATE TIME FOR BRIEFING AND CONSIDERING ALL ISSUES. THE COMMISSION RECOGNIZES THESE CONCERNS IN ITS REQUIREMENT THAT IF A MUNICIPALITY REQUESTS THAT ITS BOUNDARIES BE ALTERED, SUCH A PETITION BE SUBMITTED BY JULY 1 OF THE YEAR IN WHICH THE PETITION IS TO BE DECIDED. THE PURPOSE OF THE REGULATION IS TO ALLOW ADEQUATE TIME TO CONSIDER A PETITION BEFORE IT IS SUBMITTED TO THE LEGISLATURE. THE LOCAL BOUNDARY COMMISSION IGNORED THE

REASONING SUPPORTING ITS RULE AND ALLOWED THE REVIEW TO BE ACCELERATED.

DURING THE SAME TIME PERIOD THE NORTH SLOPE BOROUGH STRENUOUSLY OBJECTED TO THE THE CONFLICT OF INTEREST OF LOCAL BOUNDARY COMMISSIONER BERT GRIEST WHO IS A SHAREHOLDER, EMPLOYEE AND BOARDMEMBER OF NANA. IT ALSO OPPOSED ASSISTANT ATTORNEY GENERAL JOHN RUBINI'S REPRESENTATION OF BOTH THE DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS AS PETITIONER AND THE LOCAL BOUNDARY COMMISSION AS A SUPPOSEDLY IMPARTIAL TRIBUNAL. THE LOCAL BOUNDARY COMMISSION, AFTER NOVEMBER 22 AND DECEMBER 9 HEARINGS, REFUSED TO ELIMINATE THESE CONFLICTS.

DUE TO THE COMMISSION'S REFUSAL TO RESPOND TO THE OBVIOUS CONFLICT OF INTEREST OF COMMISSIONER BERT GRIEST AND OF ASSISTANT ATTORNEY JOHN RUBINI, THE NORTH SLOPE BOROUGH FILED A LAWSUIT ON JANUARY 30, 1986.

UPON FILING, BERT GRIEST EXCUSED HIMSELF. AFTER HEARING, ON JANUARY 10, 1986, JUDGE PAUL JONES, WHO SITS IN KOTZEBUE, ENJOINED JOHN RUBINI FROM CONTINUING HIS OBVIOUS CONFLICT OF INTEREST AND DUAL REPRESENTATION.

ALL OF US TAKE PRIDE IN A FUNDAMENTAL PREMISE OF AMERICAN GOVERNMENT CALLED DUE PROCESS WHICH GUARANTEES FAIR PLAY AND PROHIBITS THE OBVIOUS COMPROMISE OF THAT FAIRNESS. THE ACTIONS OF

THE BOUNDARY COMMISSION FORCED THE NORTH SLOPE BOROUGH TO SEEK RELIEF IN COURT TO GUARANTEE IT RECEIVE MINIMAL IMPARTIALITY.

THE FACT THAT THE NORTH SLOPE BOROUGH WAS FORCED TO SEEK JUDICIAL RELIEF FOR THIS OBVIOUS WRONG SUPPORTS A NORTH SLOPE CONVICTION THAT THE LOCAL BOUNDARY COMMISSION'S DECISION WAS PREDETERMINED.

IN FURTHER SUPPORT OF THAT CONVICTION I OFFER THE FOLLOWING FACTS.

NANA APPROACHED THE NORTH SLOPE BOROUGH AS EARLY AS 1983, ASKING THE NORTH SLOPE BOROUGH TO PETITION THE BOUNDARY COMMISSION FOR DETACHMENT OF UP TO 488,000 ACRES OF LAND INCLUDING RED DOG MINE. NANA ALSO ASKED THAT THE NORTH SLOPE BOROUGH SUSPEND ITS TAXING AND ZONING AUTHORITY UNTIL THE AREA WAS DETACHED. INITIALLY, THERE WAS NO REQUEST THAT THE DETACHMENT BE CONDITIONED ON THE FORMATION OF A NANA REGION BOROUGH. THE NORTH SLOPE BOROUGH WAS ALSO INFORMED THAT IF IT DID NOT PETITION THE LOCAL BOUNDARY COMMISSION FOR DETACHMENT THAT NANA WOULD GET THE STATE TO PETITION AND DETACH IN EXCESS OF 2 MILLION ACRES OF AREA.

SUCH A DETACHMENT ONLY BENEFITS NANA AS OWNER OF RED DOG MINE AND ITS SELECTED DEVELOPER COMINCO BECAUSE IT WOULD REMOVE THE COST OF BOROUGH REGULATION AND TAXATION. IT WOULD ALSO

NEGATIVELY IMPACT SUBSISTENCE RESOURCES AND THEIR USERS IN BOTH THE NANA REGION AND THE NORTH SLOPE BOROUGH. NANA OFFERED NO VIABLE SUBSTITUTE FOR THESE CONCERNS, AND TO DATE HAS NOT PROPOSED A BOROUGH EXERCISING THE FULL RANGE OF SERVICES PROVIDED BY THE NORTH SLOPE BOROUGH.

FOR THESE REASONS, NANA'S REPRESENTATIONS TO THE LOCAL BOUNDARY COMMISSION THAT THE PURPOSE OF THE DETACHMENT IS TO ESTABLISH A LOCAL GOVERNMENT, AND TO PROTECT SUBSISTENCE DOES NOT RING TRUE. ALSO, THE SUCCESS OF NANA TO GET OVER TWO MILLION ACRES DETACHED, ON AN EXPEDITED SCHEDULE, AS THREATENED DEMONSTRATES NANA'S POLITICAL POWER IN THE STATE, AND IN ITS OWN REGION. IT IS USING THIS POWER TO BENEFIT THE DEVELOPMENT.

THE LBC'S DECISION FURTHER DEMONSTRATED BIAS. I WILL NOT ATTEMPT TO LIST ALL THE INCONSISTENCIES OF THE DECISION BUT THE FOLLOWING IS AN ILLUSTRATIVE HIGHLIGHT.

THE LBC DETERMINED THAT THE TAX BASE IN THE AREA TO BE DETACHED (PRESENTLY RED DOG MINE) IS ESSENTIAL TO THE FORMATION OF A NANA AREA BOROUGH BECAUSE IT WILL PROVIDE A POSITIVE FLOW OF TAX REVENUE.

WHEN LOOKING AT THE LOSS OF THE TAX REVENUES TO THE NORTH SLOPE BOROUGH, THE LBC STATED, "THE LOSS OF A SMALL PORTION OF THE TAX BASE MAY BE SUBSTANTIALLY IF NOT TOTALLY NEUTRALIZED BY THE AVOIDED COSTS OF BEING RELIEVED FROM THE OBLIGATIONS TO

PROVIDE EXTENSIVE SERVICES IN AND TO THE DETACHED TERRITORY." I ASK YOU, HOW CAN RED DOG MINE BE A TAX BASE FOR A NEW BOROUGH AND ON THE SAME FACTS BE A TAX LIABILITY FOR THE NSB?

YOU HAVE THE AUTHORITY TO INTRODUCE A JOINT RESOLUTION THAT, UPON PASSAGE, VETOES THE LOCAL BOUNDARY COMMISSION'S DECISION. THIS ACTION WOULD FORCE A NEW HEARING AND POSSIBLY GUARANTEE A FAIR HEARING.

I SAY A NEW HEARING BECAUSE I BELIEVE THAT THE LOCAL BOUNDARY COMMISSION, AFTER A FAIR HEARING, COULD RENDER A DECISION THAT IS EQUITABLE AND DEFENSIBLE IN COURT. PASSAGE OF THE RESOLUTION WILL NOT STOP THE DRIVE FOR A NANA BOROUGH. FINALLY, THE NORTH SLOPE BOROUGH SUPPORTS THE FORMATION OF A NANA BOROUGH AFTER A FAIR HEARING AND DECISION. FOR THESE REASONS THE NORTH SLOPE BOROUGH URGES THE INTRODUCTION AND PASSAGE OF SUCH A JOINT RESOLUTION.

WHILE I URGE PASSAGE, IF THAT IS NOT POSSIBLE, AT A MINIMUM THE LEGISLATURE SHOULD PROVIDE THE NSB WITH COMPENSATION FOR ITS LOST TAX REVENUES. SUCH ACTION WILL BENEFIT THE STATE, THE NSB AND THE PROPOSED NANA BOROUGH.

THE ONLY SECURITY TO HOLDERS OF MUNICIPAL BONDS IS THE MUNICIPALITY'S TAX BASE. THE LBC'S DECISION TO REDUCE THE NORTH SLOPE BOROUGH'S TAX BASE WITHOUT PROVIDING COMPENSATION SETS A PRECEDENT THAT ALLOWS UNILATERAL REDUCTION OF THE BOND HOLDERS

SECURITY. THIS LOGICALLY IMPACTS THE MARKET VALUE OF ALL ALASKAN MUNICIPAL BONDS. THE STATE'S PAYMENT OF A PROPORTIONATE SHARE OF THE NORTH SLOPE BOROUGH'S BONDED INDEBTEDNESS DUE TO ITS LOST TAX REVENUES WILL REDUCE THIS IMPACT ON THE ALASKAN MUNICIPAL BOND MARKET. THIS SERVES THE BOROUGH AND STATEWIDE INTEREST OF MAINTAINING THE INTEGRITY OF THE MUNICIPAL BOND MARKET.

OVER THE NEXT TEN YEARS THE PROJECTED REVENUE LOSS TO THE NORTH SLOPE BOROUGH RESULTING FROM DETACHMENT IS IN EXCESS OF \$33,000,000. A STATE APPROPRIATION TO MAY A PROPORTIONATE SHARE OF THE NSB'S BONDED INDEBTEDNESS WILL NOT APPROACH THIS FIGURE.

WITH THE PRESENT PRICE OF OIL, A NORTH SLOPE BOROUGH REQUEST FOR \$33,000,000 FROM THE STATE IS NOT REALISTIC. AS A RESULT, MAYOR AHMAOGAK HAS ASKED THAT I RAISE A SEPARATE ISSUE -- MUNICIPAL LANDS ENTITLEMENT. THE NORTH SLOPE BOROUGH HAS RECEIVED NO MUNICIPAL LANDS AND IS PRESENTLY PROHIBITED FROM SELECTING ANY MUNICIPAL LANDS. LEGISLATION ALLOWING NORTH SLOPE BOROUGH SELECTION OF SUCH LANDS WILL ADDRESS THE NORTH SLOPE BOROUGH'S LOSS WITHOUT DIRECTLY COMPENSATING IT.

A LEGISLATIVE SOLUTION THAT PROVIDES ADEQUATE COMPENSATION WILL, IN EFFECT, AMEND THE LBC'S DECISION, REMOVING MUCH OF ITS SUBSTANTIVE UNFAIRNESS. THIS WILL ELIMINATE MANY OF THE REASONS FOR THE BOROUGH'S PURSUIT OF A LEGAL REMEDY.

IT WILL ALSO ENABLE MAYOR AHMAOGAK TO GO TO HIS ELECTORATE AND RESTORE THEIR CONFIDENCE IN THE MUNICIPAL BOUNDARY PROCESS.

I APPRECIATE THE OPPORTUNITY TO ADDRESS YOU TODAY. I HAVE NOT INTENDED TO OFFEND ANY INDIVIDUAL OR BODY, BUT HAVE MERELY TRIED TO INFORM YOU OF THE NORTH SLOPE BOROUGH'S POSITION, WITH ILLUSTRATIVE EXAMPLES.

I WILL BE GLAD TO ANSWER ANY QUESTIONS WHICH YOU MAY HAVE.

JAN 21 1986



Box 1210 802 Railroad Avenue
Cordova, Alaska 99574
Phone: (907) 424-3237
or 424-3238

"The Friendly City"

January 10, 1986

Mayor
Erling T. Johansen

Council Members
Joe Gunderson
Lew L. Cochran
R. L. Van Brocklin
Dick Borer
Don Narance
Hollis Henrichs

City Manager
Richard J. Leland

Acting City Clerk
D. Lynda Plant

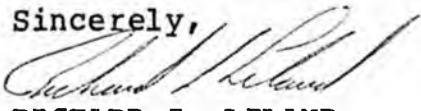
Senator Edna DeVries
Pouch V
Juneau, AK 99811

Dear Senator DeVries:

Please be advised that at their regular meeting of 1/6/86, the Mayor and City Council of Cordova took action to adopt the attached Resolution 86-1. The intent of this resolution is to express the City of Cordova's support for the North Star Borough's efforts to protect its boundary.

While we respect the issues being raised on both sides of the argument with regard to the Nana Corporation's interest, our purpose is to support the larger concept of boundary protection. The specific economics of the Nana Region and the North Star Borough will need to be settled by the parties. It is the Council's feeling that the ability for the State to indiscriminately amend municipal boundaries flies in the face of municipal government and our responsibilities to our residents.

We have to count on your efforts to protect the ability of the local entity to maintain its own boundary.

Sincerely,

RICHARD J. LELAND
City Manager

Enclosure

RESOLUTION 86-1

A RESOLUTION SUPPORTING THE NORTH SLOPE BOROUGH'S EFFORTS TO PROTECT ITS BOUNDARIES

WHEREAS, the Commissioner of the Department of Community and Regional Affairs has petitioned the Local Boundary Commission to alter the North Slope Borough's boundaries, and

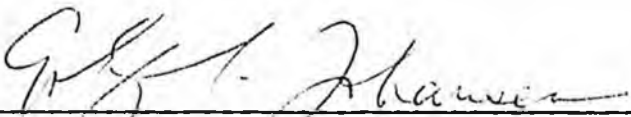
WHEREAS, the voter's of the North Slope Borough rejected a proposition to petition the Local Boundary Commission to alter the Borough's boundaries, and

WHEREAS, such action by the State to alter a municipality's boundary without its assent could have a tremendous detrimental impact on the fiscal viability and governmental integrity of all municipalities in Alaska, and

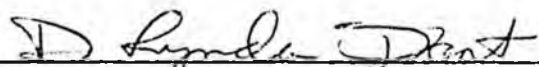
WHEREAS, such action will set a precedent which will have far reaching detrimental impacts on all municipalities in Alaska,

NOW THEREFORE BE IT RESOLVED that the Cordova City Council urges the Local Boundary Commission not to approve the boundary change requested by the Commissioner of the Department of Community and Regional Affairs.

PASSED AND APPROVED THIS 6 DAY OF January, 1986.



Mayor Erling T. Johansen



Acting City Clerk

ERIC E. WOHLFORTH
ROBERT B. FLINT
TIMOTHY G. MIDDLETON
PETER ARGETSINGER
ROBERT M. JOHNSON
GEORGE T. FREEMAN

LAW OFFICES
WOHLFORTH & FLINT
A PROFESSIONAL CORPORATION
900 W. J. 5TH AVENUE, SUITE 500
ANCHORAGE, ALASKA 99501

M/1.4.11.	SUSITNA BOROUGH
Date Rec'd: 8-11-82	Initials: [initials]
Noted By: _____	
	TELEPHONE AREA CODE 907 276-6401

August 11, 1982

NSB ATTACHMENT #

AAA

Mr. Gary Thurlow
Borough Manager
Matanuska-Susitna Borough
P.O. Box B
Palmer, Alaska 99645

Re: In the Matter of the Detachment of Territory
from the Matanuska-Susitna Borough

Dear Mr. Thurlow:

In our capacity as bond counsel, you have advised us that there is a pending petition for detachment of certain property from the Matanuska-Susitna Borough. The area proposed to be detached has an assessed valuation amounting to \$6,941,700. The total assessed valuation of the Borough, including the area proposed for detachment, is \$1,220,634,129.

The assessed valuation of the property proposed to be detached is so modest in comparison to the total assessed valuation of the entire Borough as not to create in and of itself a problem in necessary disclosure for future Borough bond financings or to appear to detract from the Borough's power to pay bonded indebtedness and other charges.

However, in our opinion, the successful detachment of the area would create a precedent for future detachments which would warrant disclosure in bond offering documents so as to put potential investors in Borough bonds on notice that the tax base of the Borough may be eroded further and more significantly. To my knowledge, no detachment or disannexation petitions have been granted with respect to those municipalities in the State, including the Matanuska-Susitna Borough, which have sold bonds for their various public purposes. The Matanuska-Susitna Borough is a substantial issuer of public indebtedness now having an outstanding indebtedness understood to be \$61,668,000. In our opinion, a granting of the detachment petition, since it would establish a precedent for future such actions, could

EXHIBIT "B"

Exhibit 1
18-37

Mr. Gary Thurlow
August 11, 1982
Page 2

significantly detract from the Borough's continued ability
to access public borrowing markets at reasonable rates.

If further information is needed, please call on
us.

Very truly yours,

WOHLFORTH & FLINT

By Eric E. Wohlforth
Eric E. Wohlforth

EEW/cm

STATE OF ALASKA
LOCAL BOUNDARY COMMISSION

STATEMENT OF DECISION

Decision regarding the)
petition for the detachment)
of the Lake Louise area)
containing 432 square miles)
from the Matanuska-Susitna)
Borough)

On July 29, 1982 the Department received the Lake Louise petition to detach 432 square miles of territory from the Matanuska-Susitna Borough.

After reviewing the petition for accuracy and completeness it was forwarded to the Matanuska-Susitna Borough on August 6, 1982. In accordance with 19 AAC 10.640, the Matanuska-Susitna Borough Assembly held a public review (August 17) on the petition and returned the petition with the Borough's Answering Brief to the Department on August 20, 1982.

Pursuant to proper notice the Local Boundary Commission held a public hearing on the petition for the proposed detachment on September 25, 1982. The hearing began at 1:00 p.m. in the Evergreen Lodge at Lake Louise. Local Boundary Commission members present were: Sheila Gallagher, Sigvald Strandberg, Bert Greist, and Josephine Anderson. Testimony was presented by Paul Holland, Petitioners' Representative, Gary Thurlow, representing the Matanuska-Susitna Borough, and sixteen additional speakers.

On January 8, 1983 in Juneau, Alaska, at 4:30 p.m. the Commission held its decisional meeting on the Lake Louise detachment petition. Local Boundary Commission members present were: Sheila Gallagher, Bert Greist, Sigvald Strandberg, and Charles Bettisworth.

Upon consideration of the Lake Louise petition to detach 432 square miles of territory from the Matanuska-Susitna Borough, the September 9, 1982 Report of the Department, the November 1, 1982 Supplemental Report of the Department, and the testimony presented at the public hearing, the Local Boundary Commission hereby makes the following findings of fact:

1. The detachment of the Lake Louise area from the Matanuska-Susitna Borough would not be in the best interests of the State, the Lake Louise area, and the Matanuska-Susitna Borough.

The Borough form of government establishes the 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. In essence, the 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 Lake Louise area would then become a part of the State's administrative responsibility. Given the fact that the Matanuska-Susitna Borough was formed by legislative action, and that the removal of the Lake Louise area would only transfer the responsibility of service delivery to the State, the Commission finds no best interest to be achieved for the State. Perhaps most significant with respect to the issue of the State's interest, the Lake Louise area is characteristic of vast areas of the eleven existing organized boroughs and unified municipalities. If this area detaches it could set a precedent that could readily be followed by similar areas.

The Matanuska-Susitna Borough would be adversely affected by the detachment of the Lake Louise area. It would reduce the assessed value by \$6,941,700 which could negatively affect the bonding capacity of the Borough.

The State of Alaska is anticipating distributing 2,635 parcels of land in the Lake Louise area over the next three years. With this potential for future growth and development in the Lake Louise area, it is possible that the community of Lake Louise will have an increasing need for borough areawide services.

- 2) The Matanuska-Susitna Borough has 20,544 square miles with a population of 19,123. Within this immense area there is 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 high 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 the majority 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 concerned with the education, school bond debt service, planning, land management and taxation. The remoteness and insignificant school age population of Lake Louise has, from a practical standpoint, limited Borough services. However, that is not to say that with the future anticipated growth within the Lake Louise area that the residents and future residents would not receive services commensurate with the rest of the Matanuska-Susitna Borough and the potential for such services will encourage the area's growth.

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 patch phone service in Anchorage. 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 response of an integrated local government.

THEREFORE, the Commission hereby does not approve the petition to detach the Lake Louise area containing 432 square miles of territory from the Matanuska-Susitna Borough and will recommend against such action to the First Session of the Thirteenth Legislature of the State of Alaska; and

THEREFORE, the Commission does recognize that there are areas of the unorganized borough of the State that are receiving the equivalent of municipal services without the responsibility of local tax contributions. Additionally, there are remote areas of the State's organized boroughs that are assessed taxes for the delivery of minimal services which in the unorganized borough are paid for by the State; and

THEREFORE, the Commission recommends to the First Session of the Thirteenth Legislature that it investigate the need for the formation of borough governments in areas of the State that have the economic base available to cover the cost of such government.

Decided on the 8th day of January, 1983.

STATE OF ALASKA LOCAL BOUNDARY COMMISSION

By: Sheila Gallagher Date: 2/28/83
Sheila Gallagher, Acting Chairman

By: Charles Bettisworth Date: 2/28/83
Charles Bettisworth, Member

By: _____ Date: _____
Bert Greist, Member

By: Sigvald Strandberg (DISSENTING VOTE) Date: 2/16/83
Sigvald Strandberg, Member

STATE OF ALASKA

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

DIVISION OF LOCAL GOVERNMENT ASSISTANCE

JAY S. HAMMOND, GOVERNOR

REPLY TO:

- POUCH BH
JUNEAU, ALASKA 99811
(907) 465-4707
- 225 CORDOVA STREET, BLDG. B
ANCHORAGE, ALASKA 99501
(907) 264-2201
- P.O. BOX 348
BETHEL, ALASKA 99559
(907) 543-3475
- P.O. BOX 41
NOME, ALASKA 99762
(907) 443-5457
- P.O. BOX 280
KOTzebue, ALASKA 99752
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September 22, 1982

Lake Louise Detachment Petition

To Whom It May Concern:

The Report to the Local Boundary Commission of the State of Alaska on the Petition to Detach the Lake Louise Area from the Matanuska-Susitna Borough, contains two errors. Please note the following changes (underlined material indicates text that is being added and bracketed material in capital letters indicates deletion).

- 1) Page 3 - The second to last sentence in the third paragraph should be amended to read:

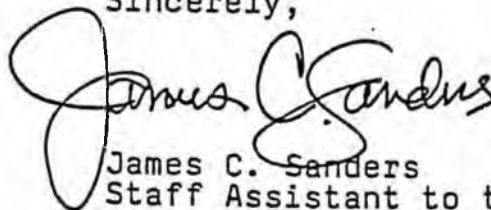
In the past 18 years only [ONE] two boroughs (the North Slope Borough and the Haines Borough) have been established.

- 2) Page 4 The last sentence of the second paragraph should be amended to read:

When this growth does begin to occur, the need for borough areawide services (education [FIRE] and planning) will become evident.

Thank you for your indulgence.

Sincerely,



James C. Sanders
Staff Assistant to the
Local Boundary Commission

JCS/sj

NSB ATTACHMENT #

BBB

REPORT TO THE LOCAL BOUNDARY COMMISSION OF THE
STATE OF ALASKA ON THE
PETITION TO DETACH THE LAKE LOUISE AREA FROM THE
MATANUSKA-SUSITNA BOROUGH

Department of Community and Regional Affairs
Division of Local Government Assistance

September 9, 1982

I. INTRODUCTION

The Matanuska-Susitna Borough was incorporated on January 1, 1964 under the provisions of Chapter 52, SLA 1963, known as the "Mandatory Borough Act". The Borough is comprised of approximately 20,544 square miles and has an estimated population of 19,123.

The Matanuska-Susitna Borough is the second largest in the State (behind the North Slope Borough), with a land mass exceeding the combined areas of the Haines Borough, Bristol Bay Borough, Kodiak Island Borough, Ketchikan Gateway Borough, City and Borough of Sitka, City and Borough of Juneau and the Municipality of Anchorage. Although much of the Matanuska-Susitna Borough is accessible by road, there are large areas which are remote and inaccessible.

The area of Lake Louise is located in the extreme eastern portion of the Matanuska-Susitna Borough. The area is accessed by an 18 mile road leading from the Glenn Highway to the southern end of Lake Louise. The community, based at the southern end of Lake Louise, is approximately 136 highway miles from Palmer and 45 highway miles from Glennallen. The map at the end of this report identifies the area proposed for detachment from the Matanuska-Susitna Borough.

The majority of the Lake Louise residents are seasonally employed during the summer months. The three lodges on the southern end of Lake Louise provide the economic and population base for the community. The majority of the land within the territory proposed for detachment is owned by the State. The Matanuska-Susitna Borough owns no land within the territory proposed for detachment.

The petition proposes to detach 432 square miles of territory from the Matanuska-Susitna Borough. The area proposed for detachment comprises 2.10% of the Borough territory, and the Lake Louise population (33) represents 0.17% of the Borough population. Of the 432 square miles proposed for detachment, 216 square miles are uninhabited State land.

According to the Borough, there are 28 registered voters and 213 dwellings in the Lake Louise area. Most of these dwellings are recreational in nature. There are 363 tax parcels in private ownership in the Lake Louise area. The property tax to be generated from the territory proposed for detachment during the current fiscal year is approximately \$37,485. The total assessed valuation of the real and personal property at Lake Louise is \$6,941,700 or 0.67% of the total assessed value of the Borough (\$1,037,000,000). The residents of the Lake Louise area contend that they receive no Borough services. The Borough, however, does maintain a public landfill in the Lake Louise area and

offers an educational program for Lake Louise students if they choose to attend school in Glennallen. According to Paul Holland, petitioners' representative, there were no children from Lake Louise attending the Glennallen school last year nor will there be this year. There are only two children in Lake Louise of school age. These students from Lake Louise have chosen a home teaching option which is provided by the Borough and the State of Alaska. The Borough also exercises planning on an areawide basis. Although the effect of the planning activities may not be readily apparent in Lake Louise, the prospect of several thousand new land owners in the area (details below) establishes the need for planning of future growth and development in the Lake Louise area.

According to the Borough, the State of Alaska is going to subdivide and distribute land in the Lake Louise area in the immediate future. An additional 2,635 parcels of land will be transferred from State ownership to private ownership. Therefore, there will likely be significant growth in the Lake Louise area within the next several years. According to the Alaska Department of Natural Resources, the State has classified 102.87 square miles of this territory for remote parcel distribution. In the State fiscal year 1983, approximately 23.44 square miles of this land will be distributed in 30 acre parcels. Additionally, 22.6 square miles of land around the lake have been classified for subdivision disposal. Approximately 3,200 acres (5 square miles) will be distributed by the State during fiscal years 1983 and 1984. These parcels will be 5 to 10 acre plots.

II. PROCEEDINGS TO DATE

On July 29, 1982 the Department received the Lake Louise petition to detach 432 square miles of territory from the Matanuska-Susitna Borough by the "local action - election" process. This petition was submitted to replace the withdrawn Legislative Review detachment petition submitted on April 20, 1982. After reviewing the current petition for accuracy and completeness it was forwarded to the Matanuska-Susitna Borough on August 6, 1982. In accordance with 19 AAC 10.640, the Matanuska-Susitna Borough Assembly held a public review (August 17) of the petition and returned the petition with the Borough's Answering Brief to the Department on August 20, 1982.

Proper notice has been given for the Local Boundary Commission's public hearing and decisional meeting on the Lake Louise detachment petition. This hearing is scheduled for September 25, 1982 at 1:00 p.m. in the Evergreen Lodge at Lake Louise.

III. STANDARDS FOR DETACHMENT FROM AN ORGANIZED BOROUGH

The following discussion outlines the considerations the Local Boundary Commission must weigh according to statutes and regulations in reaching a decision on the petition to detach the Lake Louise area from the Matanuska-Susitna Borough.

WILL THE DETACHMENT BE IN THE BEST INTEREST OF THE STATE, THE LAKE LOUISE AREA AND THE MATANUSKA-SUSITNA BOROUGH?
(19 AAC 10.230)

The issue of best interest must be addressed at each level before an overall consensus can be achieved on this issue. It is difficult to determine what effect the detachment of the Lake Louise area would have upon the State as a whole.

It is fair to state that the Alaska Constitution anticipates that the entire State would be divided into organized boroughs with some areas of the State that could not economically support a borough, becoming the unorganized borough. More than 26 years have passed since the Constitution was ratified by the voters, yet only 25 per cent of the area of the State is organized through borough governments. In the past 18 years only one borough (the North Slope Borough) has been established. No boroughs have been formed in the past 10 years.

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. In essence, the 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 Lake Louise area would then become a part of the State's administrative responsibility. Given the fact that the Matanuska-Susitna Borough was formed by legislative action, and that the removal of the Lake Louise area would only transfer the responsibility of service delivery to the State, the Department finds no best interest to be achieved for the State. Perhaps most significant with respect to the issue of the State's interest, the Lake Louise area is characteristic of vast areas within the eleven existing organized boroughs and unified municipalities. If this area detaches it could set a precedent that could readily be followed by similar areas. Such would have a significant adverse effect on the State.

The Matanuska-Susitna Borough would be adversely affected by the

detachment of the Lake Louise area. It would reduce the assessed value by \$6,941,700 (0.67%), which would negatively affect the bonding capacity of the borough. As the bonding ability of the Borough is based upon the level of taxable property, the uncertain future of current boundaries could have a debilitating effect upon the Borough's bond rating and capacity to issue bonds. In addition, there are other regions within the Matanuska-Susitna Borough that are in a similar situation to the Lake Louise area and this detachment could, again, set a precedent for future detachment proceedings from the Matanuska-Susitna Borough. Therefore, it would not be possible for the Borough to assure the bonding market of a consistent future valuation.

The residents of the Lake Louise community feel that there are definite benefits in detaching from the Matanuska-Susitna Borough. Primarily they would not be paying taxes for services which they feel are not received. Currently, 73% of the Borough's areawide mill levy is for education, 2% for parks and recreation, 3% for planning, 2% for civil engineering, 2% for assessment and property management and 18% for other costs. The residents of this area feel that the unorganized borough which borders the Lake Louise lake system offers an opportunity to continue living the same lifestyle without the burden of taxation without reciprocal benefits. While the desire to avoid taxation is readily appreciated, this approach ignores the potential for growth following the State distribution of 2,635 parcels of land in the Lake Louise area. When this growth does begin to occur, the need for borough areawide services (education, fire and planning) will become evident.

ARE THE SOCIAL, CULTURAL AND ECONOMIC CHARACTERISTICS OF THE POPULATION OF LAKE LOUISE SUBSTANTIALLY DIFFERENT OR IN CONFLICT WITH THE REMAINDER OF THE POPULATION OF THE BOROUGH?
(19 AAC 10.230)

The Matanuska-Susitna Borough has 20,544 square miles with a population of 19,123. Within this immense area there is a diversity of social, cultural and economic settings. More than 70 per cent 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 high unemployment and seasonal work, and has moved to the rural areas of the Borough within the last twenty years. There are no indications that the residents of the Lake Louise community differ substantially from the majority of Borough residents residing in the rural areas of the Borough.

IS THE GEOGRAPHIC LOCATION OR CONFIGURATION OF THE TERRITORY PRECLUDING THE PROVISION OF BOROUGH SERVICES PROVIDED OTHER AREAS OF THE BOROUGH OR MAKING THE PROVISION OF BOROUGH SERVICES IMPRACTICAL? (19 AAC 10.230)

The Matanuska-Susitna Borough currently levies an areawide mill rate of 4.9 mills and a non-areawide mill rate of 0.5 mills. The areawide functions are primarily concerned with the education, school bond debt service, planning, land management and taxation. The non-areawide functions are primarily concerned with libraries, emergency medical services, solid waste disposal and animal control. The geographic location of the Lake Louise area and its small school age population make the provision of education services to the community impractical at this time. As there is no school in the Lake Louise area, all of the students have opted for education correspondence courses. However, the students do have a choice between the Borough administered correspondence course or the State administered course. The Borough is also willing to pay the Copper River Regional Educational Attendance Area \$2,180 for each child from the Lake Louise area who chooses to attend school in the Glennallen school. The Matanuska-Susitna Borough has made arrangements with the State of Alaska's Department of Education Student Transportation Office for school bus transportation for Lake Louise children who wish to attend the Glennallen school.

The remoteness and insignificant school aged population of Lake Louise has, from a practical standpoint, limited Borough services. However, that is not to say with the future anticipated growth within the Lake Louise area that the residents and future residents would not receive services commensurate with the rest of the Matanuska-Susitna Borough and the potential for such service will encourage the area's growth.

IS THE LACK OF TRANSPORTATION FACILITIES PRECLUDING THE COMMUNICATION AND EXCHANGE NECESSARY FOR RESPONSIVE AND INTEGRATED LOCAL GOVERNMENT? (19 AAC 10.230)

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 patch phone service in Anchorage. 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 and integrated local government.

IV. CONCLUSIONS AND RECOMMENDATIONS

The detachment proposal has almost total support among the residents of the Lake Louise community. The residents of this area feel that they are paying an inequitable amount of Borough taxes and are being ill-served by a more urban based Borough government. To some degree, the concerns of the Lake Louise residents are justified. Some areawide services provided by the Borough to Lake Louise residents are not available at the same level as those provided to the more populated and accessible areas of the Borough.

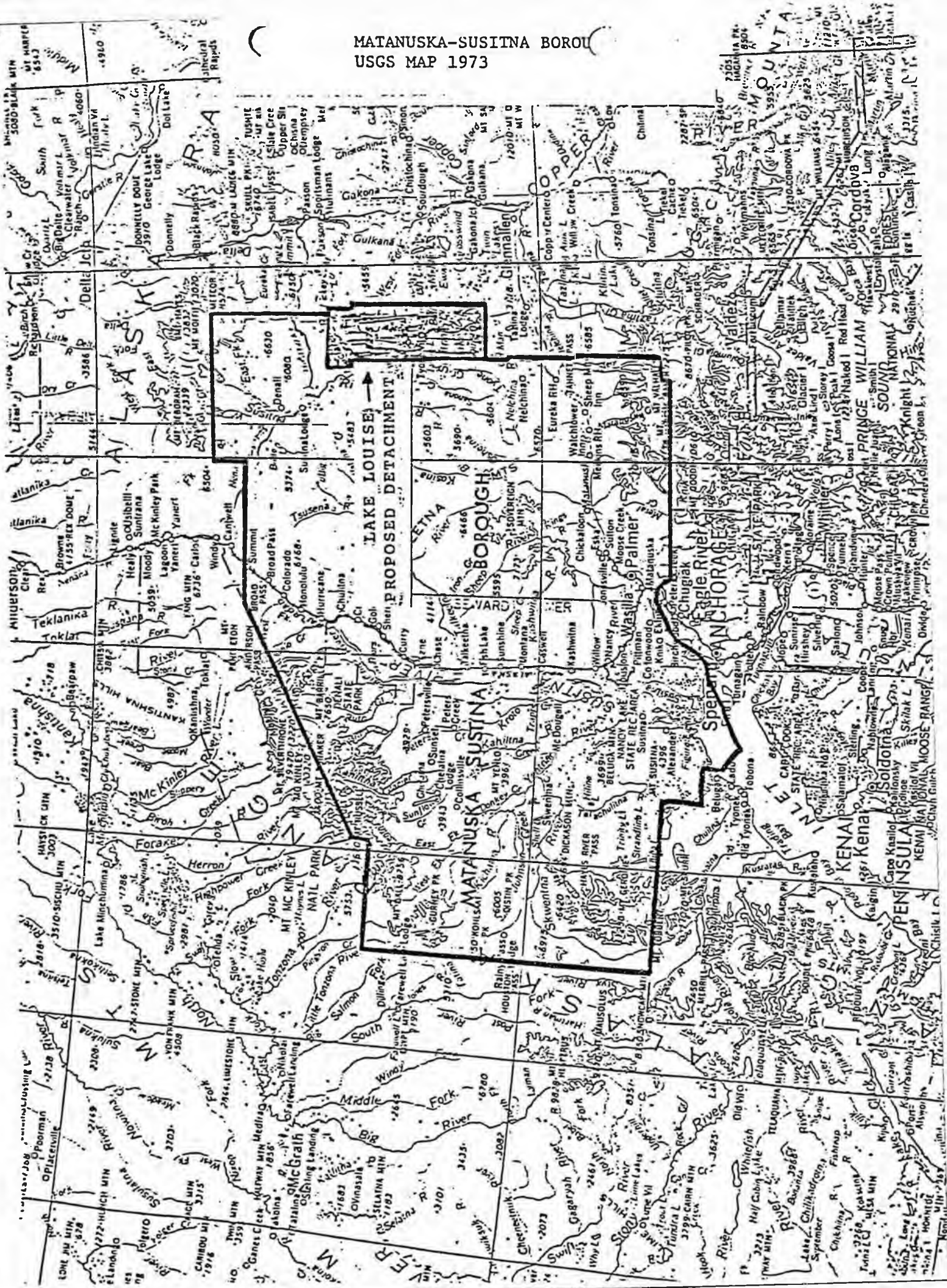
However, as the Matanuska Susitna Borough continues to grow and particularly the Lake Louise area begins to enter a development phase, the commonality of social, cultural and economic interests of both groups will begin to merge.

There are no geographic configurations which preclude the provision of Borough services to the area, and there are facilities which adequately allow proper communication between the Lake Louise area and the Borough seat of government. Further, it is apparent that the proposed detachment is not in the best interests of the State or the Matanuska-Susitna Borough.

In the Department's view the standards for detachment as prescribed in 19 AAC 10.230. have not been met in the Lake Louise petition to detach from the Matanuska-Susitna Borough. Therefore, the Department of Community and Regional Affairs recommends that the Local Boundary Commission deny the detachment proposal in the Lake Louise petition.

The Department further recommends that the Local Boundary Commission, in its annual report to the legislature, address the issue and status of borough government throughout the State. Particularly, there is a need for a thorough review of the inequitable burden for the payment of local services (particularly education) which currently exists within organized boroughs. Hopefully, this would encourage the State to develop a means of resolving this longstanding inequity.

MATANUSKA-SUSITNA BOROU
USGS MAP 1973



Eagle River Star 1/23/86

— EDITORIALS —

Councils play important role

The municipal planning commission last week approved an Eagle River rezoning petition despite opposition from neighbors and a unanimous vote (12-0) from the area's community council.

We are concerned, not that the commission based its decision on other criteria than those which led the council to its vote, but with a commission member's opinion regarding councils. Commissioner Alicia Iden dismissed the council vote, saying community councils were not intended to be "another layer of government."

COMMUNITY COUNCILS ARE provided for in the charter which is the basis for local government in the Municipality of Anchorage. While Chugiak - Eagle River residents were vehemently opposed to the charter which Anchorage residents succeeded in passing in 1976, many local people had a hand in its preparation.

Having thrice staved off unification during the preceding decade under the banner "It Ain't Writ Rite," they wanted to insure that charter provisions offered the least possible damage. The charter finally did worm its way through the back door and Chugiak - Eagle River residents are happy that their work provided some safeguards.

One of those safeguards is the community council provision. If not the most important item in the charter (retaining the service area concept was the top priority), it certainly is at the head of the list.

COMMUNITY COUNCIL IMPORTANCE was so great, in fact, that they are listed in a so-called Bill of Rights. Third of 13 is "the right to establish local community councils to assure maximum community self-determination, exercised in conjunction with others and without infringement upon the rights of other persons."

That importance is further borne out in Article VIII, which deals exclusively with councils. It reads, "The Assembly by ordinance shall provide for establishment of community councils to afford citizens an opportunity for maximum community involvement and self-determination. The ordinance shall include procedures for negotiation between the local government and each community council with respect to the duties and responsibilities of the community council."

If you want to find the planning commission's place in the charter, look to Article XII, Planning. Section one says, "The Assembly by ordinance shall adopt and implement, and from time to time modify, a comprehensive plan setting forth goals, objectives, and policies governing the future development of the municipality." The next section, in just 11 words, deals with the planning commission: "There shall be a planning commission constituted as provided by ordinance." Don't bother looking in the Bill of Rights. The planning commission isn't listed there.

NOT ALL COUNCILS throughout Anchorage are effective. None is as active as any of the six Chugiak - Eagle River area councils. Residents here take an interest in what goes on around them. They participate in their councils. Their councils should be given the consideration they deserve.

Councils are not a layer of government. They have no power. But they are the only unified voice residents can have in laying a neighborhood view point before government decision-makers. When you're stuck in one end of a megalopolis, you need all the help you can get to let the folks who occupy the city tower know things look a little different on this side of the mountain.

Forming a separate borough

People in the Kotzebue area gained an historic victory Monday when the state's local boundary commission granted their petition to separate themselves from the North Slope Borough and form a local government unit of their own.

It was something this community tried unsuccessfully to do a decade ago. Arguments for this week's action echo those raised here.

THE KOTZEBUE PEOPLE are benefiting from work done by Chugiak - Eagle River residents. When our petitions were rejected, there were no regulations under which the move could be accomplished.

Ed Willis, then a member of the state senate, gained legislative changes and pushed the administration to promulgate regulations. Attorney Vince Vitale worked with the state to come up with the wording covering detachment of an area from a borough and creation of a separate borough.

The desire to regain independence continues to be expressed here. It is a desire which probably can never come true now that the city is so firmly entrenched in this community.

WE REJOICE FOR the new borough in Northwest Alaska. We are glad to have been able to do something to help pave the way for their success. We watch with interest as they move forward.

BILL SHEFFIELD, GOVERNOR

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

MUNICIPAL & REGIONAL ASSISTANCE DIVISION

February 10, 1986

*Rec'd 4:15 p.m.
2/10/86 AJA*

The Honorable Edna DeVries
Chairman
Senate Community and Regional Affairs Committee
Pouch V
Juneau, AK 99811

Dear Senator DeVries:

At the Joint House-Senate Community and Regional Affairs Committees on February 4, certain members of the Committees expressed an interest in the previous efforts to detach territory from the former Greater Anchorage Area Borough to create the Chugiak-Eagle River Borough. Interest was also expressed in the proposed detachment of Lake Louise from the Matanuska-Susitna Borough.

As requested, I have enclosed copies of relevant documents relating to these two actions. The documents consist of the following:

- ° The April 15, 1975 State Supreme Court Opinion determining that the formation of the Chugiak-Eagle River Borough through a special act of the legislature is not valid because it was a special and local act prohibited by Article 2, Section 19 of the Constitution.
- ° The subsequent Petition for the Detachment of the Greater Chugiak-Eagle River Area from the Greater Anchorage Area Borough and the Petition for the Incorporation of the Proposed Chugiak-Eagle River Borough.
- ° The Report of the Department of Community and Regional Affairs on the proposed detachment and incorporation of the Chugiak-Eagle River Borough.
- ° The March, 1976 Statement of Decision of the Local Boundary Commission rejecting the petition for detachment of the Chugiak-Eagle River Area.
- ° The June 7, 1982 Petition for the Detachment of the Lake Louise Area from the Matanuska-Susitna Borough.

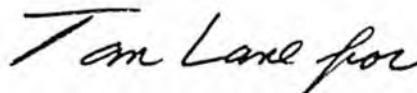
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The Honorable Edna DeVries
February 10, 1986
Page Two

- ° The September 9, 1982 initial report and the November 1, 1982 supplemental report of the Department of Community and Regional Affairs on the petition for the detachment of Lake Louise.
- ° The January 9, 1983 Statement of Decision of the Local Boundary Commission rejecting the petition for detachment of Lake Louise.

If you desire additional information, please advise me.

Sincerely,

A handwritten signature in cursive script that reads "Tom Lane for".

Marty Rutherford
Director

Enclosure

REPORT TO THE LOCAL BOUNDARY COMMISSION

PROPOSED DETACHMENT AND BOROUGH INCORPORATION OF THE CHUGIAK-EAGLE RIVER AREA

FROM

THE MUNICIPALITY OF ANCHORAGE

The Local Boundary Commission has before it the question of whether the detachment of the Chugiak Eagle-River area from Anchorage, and subsequent incorporation as a second class borough, is in the best interest of the citizens who reside in the area which is proposing detachment and incorporation, in the best interest of the population of the remainder of Anchorage, and in the best interest of the State.

The report to the Commission is based on the following standards, as cited from the Alaska Constitution, Alaska Statutes, and the Alaska Administrative Code.

Alaska Constitution, Article X, Local Government

Section 1. The purpose of this article is to provide for maximum local self-government with a minimum of local governmental units, and to prevent duplication of tax-levying jurisdictions. A liberal construction shall be given to the powers of local government units.

Section 2. All local government powers shall be vested in boroughs and cities. The State may delegate taxing powers to organized boroughs and cities only.

Section 3. The entire State shall be divided into boroughs, organized or unorganized. They shall be established in a manner and according to standards provided by law. The standards shall include population, geography, economy, transportation, and other factors. Each borough shall embrace an area and population with common interests to the maximum degree possible. The legislature shall classify boroughs and prescribe their powers and functions. Methods by which boroughs may be organized, incorporated, merged, consolidated, reclassified, or dissolved shall be prescribed by law.

Alaska Statutes, Title 29, Section 29.18.030, Organized Boroughs

An area may incorporate as an organized borough if it conforms to the following standards:

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

Alaska Administrative Code, Title 19, Section 15.230

REVIEW BY LOCAL BOUNDARY COMMISSION. (a) The Local Boundary Commission shall review the petition, all exhibits thereto, the resolution and other pertinent data. Such review shall be limited to the following factors:

(1) whether the detachment would be inimical to the interests of the state or any municipality from which detachment of the territory is sought;

(2) whether the territory proposed for detachment is grossly disproportionate in size to the population residing therein, provided, however, that this provision shall not prohibit a detachment merely because the area to be detached consists of or contains uninhabited territory.

The major factors to be considered by the Commission, as spelled out in the Constitution, Statutes, and Code, are as follows:

1. maximum local self-government with a minimum of local government units
2. prevention of duplication of tax-levying jurisdictions
3. interrelation and integration of an area's social, cultural, and economic activities based on standards of population, geography, economy, transportation, and any other relevant factors
4. contiguity of an area, or areas
5. health and safety, and the delivery of services
6. total impact on the proposed new borough and on the remaining borough

All of these factors must be considered within the framework of what will be in the best interests of the State, and the communities involved in the detachment. The detachment of the Eagle River-Chugiak community from Anchorage cannot

be considered as a single, isolated incident in the State. Consideration should be given to the question of whether a precedent will be set by the decision made by the Commission. What total effect will the Commission's decision have on local government in the State?

The Constitution calls for a "minimum of local government units". The major question then is whether the interests and needs of the Eagle River-Chugiak area are so basically different from those of the rest of the Anchorage Borough that creation of two boroughs, where one now exists, justifies maximizing "local government units". The same question must be asked in contemplating the creation of two tax-levying jurisdictions in an area where only one now exists. Is this a "duplication of tax-levying jurisdiction" which it is the intent of the Constitution to avoid in the State's planning for local governments?

The next factor to be considered is whether the detachment of the Eagle River-Chugiak community is justifiable because it is an area which is interrelated and integrated socially, culturally, and economically within its proposed boundaries. Or is the interrelationship and integration, as required in the statutes, existent between the Eagle River-Chugiak area and the remainder of Anchorage?

The basis for determination of the two factors of interrelationship and intergration are population, geography, economy, transportation, and ar other relevant factors. The following data and discussion focus on these criteria.

Population

Population estimates as of April 1975

Present total of Anchorage	173,768
Proposed new borough	8,402

Comparison of the proposed new borough's population with the rest of the boroughs in the State shows that the new borough would be larger in population than five of the existing boroughs, and smaller than six of the existing boroughs. A comparison with the Anchorage population is obvious, the proposed new borough being a relatively small fraction of the total Anchorage population.

Geography

Using the Eagle River shopping center as the population center of the proposed new borough, and downtown Anchorage as the nucleus of the entire area, there is a distance of 15 miles between the two. The two areas are separated by military land, but are not separated by any natural barriers such as unspanned rivers or mountains. Therefore, in one sense the proposed new borough might be considered non-contiguous to the rest of Anchorage because of the military land lying between the two areas. On the other hand, the lack of natural barriers, plus the Glenn Highway which joins the two areas, is an argument in favor of contiguity of the total municipality as it presently exists.

Although there are not other areas in Anchorage which are exactly comparable in character to the Eagle River-Chugiak area, there are areas where distance from the population center of Anchorage would be a stronger argument for non-contiguity. The City of Girdwood is approximately 40 miles from downtown Anchorage, and the community of Portage is approximately 50 miles from downtown Anchorage. However, both of these communities are far smaller in population than the Eagle River-Chugiak community.

Transportation

As has been mentioned, the Glenn Highway joins the proposed new borough and Anchorage. The State Highway Department is in the process of widening this highway to four lanes, the entire distance between Eagle River-Chugiak and Anchorage, because of the increasing volumes of traffic using the highway. The following average daily traffic counts for 1974 have been obtained from the State Department of Highways.

Glenn Highway weigh station (between Eagle River and the military base)

19,400 average daily trips

Muldoon Road and Glenn Highway (between the military base and Anchorage)

18,100 average daily trips

Mirror Lake on the Glenn Highway (between Eagle River-Chugiak and Palmer)

4,374 average daily trips

The last figure was obtained to ascertain how many of the average daily trips between Eagle River-Chugiak and Anchorage might be attributable to traffic coming from beyond the Eagle River-Chugiak area. There was no way of determining how many of the 4,374 average daily trips terminated in the Eagle River-Chugiak area, and how many passed through into Anchorage. However, the traffic counts taken at the other two points indicate a considerable amount of traffic between Eagle River-Chugiak and Anchorage.

The other mode of transportation between the two areas, in addition to vehicles, is by bus. The Anchorage Borough bus system includes a route between Eagle River and Anchorage. During the weeks of April 14 through April 26, 1975, Anchorage counted the number of passengers using the bus system. Following is the total bus ridership during that two-week period.

Eagle River-Anchorage route 1,158

Total of all routes in Anchorage 33,392

While bus ridership figures are not as indicative of intercourse between the two areas as is the traffic counts; the figures do demonstrate that ridership between Eagle River and Anchorage is fairly proportionate in relation to population. The population of Eagle River-Chugiak is about 5% of the total Anchorage population. Bus ridership between Eagle River and downtown Anchorage is approximately 3½ % of the total bus ridership for the Anchorage Borough. When it is taken into account that the bus route does not extend beyond Eagle River to serve the Chugiak area, and the fact that the Eagle River-Anchorage route is the longest bus route in the Anchorage Borough, the relative closeness of the two percentages is surprising.

Economy

The assessed property evaluations for the 1975-1976 tax year are as follows:

Total present municipality of Anchorage	\$ 2,785,686,960
Chugiak Service Area	53,049,995
Eagle River Service Area	70,648,490
Eagle River Landfill*	10,899,585

* The Eagle River landfill includes all the area outside the Chugiak Service area and the Eagle River Service Area using the sanitary landfill.

The figures on assessed property evaluation show that the total evaluation for the Eagle River-Chugiak area, which is \$134,598,035, is a relatively small portion of the total tax base of Anchorage. The tax base of Anchorage is large enough so that it will not feel the loss of that portion based on the property evaluations of the proposed new borough. The crucial question is whether the Eagle River-Chugiak tax base is large enough to support necessary services without the support of the larger tax base of the entire Anchorage area as it presently exists.

In addition to assessed property evaluations, consideration should be given to where present and future monies which supply tax dollars are spent. A look at the relatively undeveloped business community in Eagle River-Chugiak, the relatively highly developed business community in the Anchorage area, and the transportation between the two areas as shown by the traffic counts on the Glenn Highway, would indicate that a large portion of the dollars earned and spent by Eagle River-Chugiak residents are now, and will be for some time in the future, flowing into the Anchorage bowl area.

In turn, the larger tax base of Anchorage has helped provide bond monies for construction of schools in the proposed new borough, and supplies a wide range of services available to all Anchorage residents. In fact, according to information gathered on the provision of various services, a higher level of some services is being provided to Eagle River-Chugiak residents than to other outlying areas in Anchorage.

Eagle River is the only area lying outside the major population center of Anchorage which has a health center for the residents of that area. The health center provides a full range of services, including immunization, family planning, and well baby clinics on a regular basis. The clinic is part of the areawide health department, and is completely supported by areawide taxes.

Eagle River also has a library which is part of the non-areawide library power of the Anchorage Borough, and is also completely supported by the entire non-areawide tax base.

In contrast, the Rabbit Creek area, which is also a growing population center outside of central Anchorage, has neither a health clinic nor a library.

Other services provided to the Eagle River-Chugiak area, under the areawide powers of Anchorage, are the three basic services of schools, planning and zoning, and assessment and collection of taxes, as well as transportation, dog control, solid waste management, and environmental protection.

Sewers and a treatment facility exist in the population center of Eagle River under a sewer assessment district. The treatment facility is a lagoon which has the capacity of serving 1,200 people. There are about 1,100 people now being served, so the facility is operating almost at capacity.

In the last legislative session \$100,000 was appropriated for planning and design to expand the system. The Anchorage Department of Public Works is, at this writing, interviewing consultants to perform the planning and design work.

Water in Eagle River-Chugiak is supplied from individual wells, and several small, private water systems, as it is in all areas of Anchorage outside of the major population center.

Two fire service areas provide fire protection to the population centers of Eagle River and Chugiak, respectively.

Formation of a service area for the provision of police protection was defeated at the polls in 1974. The residents have been able to work out an agreement with the Alaska State Troopers to provide "a level of service to the Eagle River-Chugiak area which is more concentrated than that afforded other areas of the State." (Coopers and Lybrand, Profiles of Alternative Municipalities for the Eagle River-Chugiak Area - P.26)

In summary, the basic services which are areawide, or non-areawide powers of Anchorage, are now being provided to the Eagle River-Chugiak area. Additional services are being provided, as in the case of fire protection and sewers, when the residents are willing to increase their taxes in order to pay for them.

Summary of Eagle River-Chugiak Service Area Elections

October 4, 1966--fire protection, Eagle River and Chugiak--failed
 July 30, 1968--fire protection, Chugiak--passed
 January 28, 1969--fire protection, Eagle River--passed
 October 5, 1971--roads and drainage, Eagle River--failed
 October 2, 1973--parks and recreation, Eagle River and Chugiak--failed
 March 12, 1974--police protection, Eagle River and Chugiak--failed

The question of delivery of services is directly tied to an area's economy, and its willingness to support necessary services. Consideration of this question rests on the Commission's judgment as to whether the Eagle River-Chugiak area tax base will be able to support mandatory functions (schools, planning and zoning, assessment and taxation). Further, consideration must be given to whether the new borough will be able to support additional municipal services and functions such as health services and facilities, public safety, street and road maintenance, libraries, and other areawide, or non-areawide, functions.

OTHER FACTORS

Other factors to be considered include the status of land and water resources. Patented trust land, belonging to Anchorage, totalling 2,328 acres will lie within the boundaries of the proposed new borough. Most of this land is being used for parks and recreation, with the exception of 192 acres at Fire Lake which is also being used for gravel extraction and sanitary landfill. The loss of these lands by Anchorage serves to reduce considerably the municipality's total patented land. Anchorage's total patented acreage, at this point, is 3,745. This figure includes the 2,328 acres which will lie within the boundaries of the new borough, thus reducing Anchorage's total patented acreage to 1,417 acres if the new borough is formed.

The implications of the loss of this acreage is that Anchorage will need to look for other lands to meet its park and recreational needs. This is going to be difficult because of the shortage of available and useable lands now available in the Anchorage Bowl.

A similar situation exists regarding future need in the Anchorage area for additional water supplies. A report prepared by Tryck, Nyman, Hayes for The City of Anchorage Water Utility and Central Alaska Utility, pinpoints the Eagle River as the most economical source to meet future water requirements for the Anchorage area. The Federal Power Commission has withdrawn most of the Eagle River, and surrounding lands, for use as a future water resource. In the future, when this water resource will be needed, application will be made to the Federal Power Commission for its use. The problem as stated by Frank Nyman of Tryck, Nyman and Hayes regarding the proposed formation of another local government, will be that two local governments will be competing for permits to control the Eagle River water source.

A further complication concerning water sources occurs between two local governments if agreement cannot be reached relative to water uses. Title 29 addresses this question as follows:

29.48.037 (b) A municipality may adopt ordinances to protect its water supply and watershed and may enforce them outside its boundaries. Before this power may be exercised within the boundaries of another municipality, the approval of that municipality must be given by ordinance. This section applies to general law and home rule municipalities.

A hypothetical case in point might be a situation where Anchorage applies to the Federal Power Commission for a permit to divert water from the Eagle River for use in the Anchorage area. The Federal Power Commission issues the permit to Anchorage. The Eagle River lies within the boundaries of the Eagle

River-Chugiak Borough, thereby making it impossible for Anchorage to proceed with the permitted use unless allowed to do so, by ordinance, by the Eagle River-Chugiak Borough.

Considering the above mentioned facts concerning land and water resources, and their implications for Anchorage, it is respectfully proposed that if the Commission makes the determination in favor of detachment, and borough incorporation, the following be required.

1. passage of an ordinance by the new borough giving approval to Anchorage for use of the Eagle River as a future water resource
2. a requirement that all park lands presently belong to Anchorage and lying within the boundaries of the new borough, be held in perpetuity as park land.

Assets and Liabilities

In addition to the above proposals, a discussion, and recommendations, concerning the division of assets and liabilities is offered for Commission consideration in the event a decision is made favoring detachment and incorporation.

In the event of detachment Commission responsibility is fixed upon (1) an allocation of the assets and liabilities of Anchorage which may be due the Chugiak-Eagle River Borough on the basis of powers assumed and exercised by the latter, and (2) the division of the assets and liabilities of the respective areas during the transitional year, that is, an allocation of the assets and liabilities during adjustment proceedings.

Involvement of the Local Boundary Commission in such an equitable settlement is without precedent in the State of Alaska. No regulations have been

adopted by the Commission describing a method by which to undertake the division of assets and liabilities.

In the absence of Commission-adopted regulations, a body of state law and lack of precedent within the State, the Department has endeavored to review asset and liability apportionment schemes in other state jurisdictions. Our research was conducted primarily to determine whether there is some form of commonality in the allocation schemes adopted by other states. We believe the identification of such schemes might serve to identify a comprehensive scheme for adjustment and assignment of assets and liabilities in Alaska.

Boundary adjustment poses a most critical question - "What is to be done with the indebtedness and property of the entity which is losing territory in order to adjust for its loss?" Citing the Harvard Law Review: Four general approaches have been tried in other legislation.

(1) No indebtedness changes are effected and the financial status quo is maintained. This solution is common in incorporation legislation. California and North Carolina, for example, require no changes. But it can also be found occasionally in annexation and detachment. This is a highly unrealistic approach which will have two possible results. Whether great unfairness will result from the decreased tax base and continued indebtedness, or needed boundary adjustments will not be effected because undue financial burdens are likely to result.

(2) The second approach is to base allocations of indebtedness upon a formula which can be applied unswervingly in each case. For example, in Indiana the municipality shall be liable upon annexation or incorporation for "so much of such indebtedness of such civil townships in proportion that the assessed valuation of property in such...territory is to the valuation of all property in such townships...prior to the (boundary adjustment)....The approach is a perfect

solution in the normal case; but too often extraneous factors arise, such as the degree of amortization, the ability of the territory's residents to continue to use the facilities for which the indebtedness was incurred, the provisions of bonds limiting assignments, the existence of presently-contracted future obligations, and the degree to which the facility for which the indebtedness was incurred is revenue-producing. (Factors such as inflation impact, depreciation, facility acquisition cost and a multitude of variables could be contended with.) Such occurrences make a formula unattractive since it will too often produce inequities which can be avoided by a more flexible system. Further, the addition of variables into some formula incorporating such variables may well be so costly as to negate the benefit of adopting such formula.

(3) The third method is to require the territory to continue to be liable for all prior indebtedness and to be subject to municipal indebtedness only if it is incurred in the period after the boundary adjustment. Such a system is usual in detachment legislation, but it can be found in other contexts. It has not been widely adopted probably because of the administrative difficulties which would tend to result when different parts of the municipality are taxed at different rates by different entities. Further, political, and perhaps debt ceiling, problems might arise whenever the municipality wished to impose higher tax rates for new improvements since various areas would have different tax rates. Differing assessment practices might further complicate the situation. In addition, a problem might arise as to whether land should be assessed for the purpose of the old township tax on the basis of improvements made after the territory became part of the municipality, or on the value at the time of the boundary adjustment. Thus if a scheme can be established to eliminate overlapping tax jurisdiction, it would be impossible not to overlap tax jurisdictions in the case at hand. (This method may violate the State's Constitutional provision under Article X Section I "duplication of tax-levying jurisdictions" as cited on Pg. 2.)

(4) The fourth method seems to be the most acceptable. A general standard is prescribed as to how the allocation should be carried out and some board or court is empowered to adjust indebtedness in light of that standard. In this case the Local Boundary Commission is assigned a role similar to other Commissions, committees or bodies in other states. For example, in Virginia on incorporation the standard for the court's allocation is "just." In Ohio, upon incorporation the county probate court must make a "proper" allocation of indebtedness and funds. In Minnesota, the Municipal Commission apportions indebtedness upon incorporation, annexation, and detachment on the basis of what is "just and equitable."

This draft adopts this fourth method and uses "fairness and equity" as its basic standard, but is more specific in that it requires consideration of the interests of the groups most directly affected. The determination is made in light of the burdens and benefits resulting from the boundary adjustments as a whole and not just in light of the financial considerations. Thus the detriments of the other allocation methods--unfairness, bars to boundary adjustment, inability to adjust to situations outside the norm, and multiplicity of governments taxing in the territory--are all avoided. Without exception where other state laws address the question of dividing assets and liabilities between public concerns, in an attempt to be "fair and equitable," those state legislatures have adopted statutory criteria based on the concept of "a just proportion of existing debt and assets."

The formula for determining the pro rata share in division of liabilities and non-fixed assets are many and vary with specific circumstances. However, in general, the "just" proportion of existing debt to be assumed by a municipality is the ratio the assessed taxable value in the entire district prior to separation. The percentage figure so obtained is then applied to the total amount of existing debt for which the new municipality shares responsibility in the provision of services.

In addition to pro rata debt assumption and non-fixed assets assumption, in some jurisdictions a new municipality would also pay for a share of the value of public improvements contained within the new area. However, in the absence of state law requiring payment for public improvements from the new municipality to the former municipality, payment would not likely be upheld in a judicial proceeding. As challenged (Norfolk County v. City of Portsmouth 124 Va. 639, 659, 98 SE. 755, 761-762.)

Whenever compensation for existing public improvements has been allowed, (always by legislative action) the basis for compensation has been the valuation of the improvement.

In the State of Minnesota, state law proscribes that public improvements and/or real property are jointly owned between municipalities after detachment. Each municipality's interest in properties is proportional to their assessed valuation at the time of separation.

In the State of New Jersey, state law proscribes that any public improvements and/or real property shall be and remain the property of the municipality in whose limits the property lies after separation, and any indebtedness then existing which has been incurred for or on account of the property shall become the indebtedness of the municipality within whose limits the property lies.

The Department would recommend that the Division of fixed assets and assignable liabilities (public improvements, and real property) be effected by using the method proscribed under New Jersey law.

The overriding advantage of adopting a method such as proscribed in New Jersey for fixed property division is that no fixed assets and incidental debt remain in mutual contest between municipalities and the question is forever settled.

The Department recommends for Boundary Commission consideration that:

1. The "just and equitable" formula most frequently used in other state jurisdictions be used. i.e.

$$\frac{\text{Total assessed taxable value of Chugiak-Eagle River}}{\text{Total assessed taxable value of the Anchorage Area}}$$

...

equals

Pro rata share of Chugiak-Eagle River debt and non-fixed assets

- a) The percentage figure so obtained would be applied to all fund balances of Anchorage for which Chugiak-Eagle River has vested financial interest. The percentage attributable to Chugiak-Eagle River of the fund balance would become payable to Chugiak-Eagle River from Anchorage.
- b) Funds held by Anchorage that are the funds of a service area that will lie within the boundaries of Chugiak-Eagle River become the assets of Chugiak-Eagle River.
- c) Chugiak-Eagle River shall receive from Anchorage a cash payment equal to the pro rata percentage of value of all non-fixed assets owned by Anchorage on the date of detachment for which Chugiak-Eagle River has vested interest. The determination of value of non-fixed assets may be made by an appraisal of non-fixed properties.

- d) Chugiak-Eagle River Borough accepts a pro rata share of all incidental debt of Anchorage not associated with fixed or real property for which Chugiak-Eagle River has vested interest. The amount of the debt associated therewith and assignable to Chugiak-Eagle River shall be paid by cash from Chugiak-Eagle River to the Anchorage Area.
- e) All fixed assets (public improvements on real property) shall become and remain the property of the borough in which they lie. All debts associated with fixed assets shall become the debt of the borough in whose territory the fixed assets lie.
- 1.) The new borough would be ordered to pass an ordinance giving approval and permission to the Anchorage area to use Eagle River as a possible future water resource.
 - 2.) All lands designated park lands presently belonging to Anchorage, lying within the boundaries of the proposed new borough, would be restricted to the status of park lands

On the basis of the foregoing Anchorage area and petitioners in the Chugiak-Eagle River Area would place before the Commission their respective claims to assets and liabilities. The Commission would be required to arbitrate settlement based on respective argument.

The Commission would need to determine a possible date for which detachment would be effected, so that the formula proposed could be uniformly applied.

Harold S. ABRAMS et al., Appellants,
v.

STATE of Alaska et al., Appellees,
v.

Lee B. JORDAN, Mayor of the Second Class
Borough in the Eagle River-Chuglak
Area, et al., Appellees.

Lee B. JORDAN, Mayor of the Second Class
Borough in the Eagle River-Chuglak
Area, et al., Cross-Appellants,
v.

Harold S. ABRAMS et al., Cross-Appellees.
Nos. 2407, 2418.

Supreme Court of Alaska.
April 15, 1975.

Action was instituted to determine validity of formation of the Eagle River-Chugiak Borough. The Superior Court, Third Judicial District, Anchorage District, Eben H. Lewis, J., upheld validity of the borough and appeal was taken. The Supreme Court, Connor, J., held that statute pertaining to the organization of the Eagle River-Chugiak Borough was special and local in nature; that nothing in nature of the Eagle River-Chugiak area justified departure from general law scheme of incorporating new boroughs and, therefore, the statute pertaining to creation of the borough contravened constitutional prohibition against passage of local or special acts when a general act can be made applicable; and that constitutional provision requiring division of state into boroughs did not grant power to enact special and local laws creating boroughs notwithstanding the prohibition against passage of local or special acts.

Reversed and remanded.

Erwin and Fitzgerald, JJ., did not participate.

1. Statutes ⇨77(1)

Legislative act may affect only one of a few areas and yet relate to a matter of statewide concern and common interest

and, thus, not constitute a local or special act within constitutional prohibition against such acts. Const. art. 2, § 19.

2. Statutes ⇨77(1)

In determining whether a legislative act is a local or special act within constitutional prohibition against such acts, ultimate question is whether the act is reasonably related to a matter of common interest to the whole state. Const. art. 2, § 19.

3. Statutes ⇨76(2)

Statute pertaining to organization of Eagle River-Chugiak Borough constituted both special and local legislation within constitutional prohibition against passage of local or special acts if a general act can be made applicable. Laws 1974, c. 145; AS 29.18.030 et seq.; Const. art. 2, § 19.

4. Statutes ⇨76(2)

Nothing in nature of Eagle River-Chugiak area justified departure from general law scheme of incorporating new boroughs; thus, special and local legislation pertaining to organization of the Eagle River-Chugiak Borough violated constitutional prohibition against passage of a local or special act when a general act can be made applicable. Laws 1974, c. 145; AS 29.18.030 et seq.; Const. art. 2, § 19.

5. Statutes ⇨76(2)

Constitutional provision requiring division of state into boroughs and giving legislature broad power over methods by which boroughs may be organized, incorporated or dissolved did not empower legislature to enact special or local laws pertaining to organization of boroughs despite constitutional prohibition against passage of local and special acts when general acts can be made applicable. Laws 1974, c. 145; AS 29.18.030 et seq.; Const. art. 2, § 19; art. 10, § 3.

6. Statutes ⇨76(1)

Constitutional prohibition against enactment of a local or special act if a general act can be made applicable governs exercise of all legislative powers expressly granted by other portions of the Constitution. Const. art. 2, § 19.

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7. Constitutional Law ☞15

Different provisions of Constitution should be read so as to avoid conflict whenever possible.

George A. Dickson & John Hedland, David Engles of Rice, Hoppner, Blair & Hedland, Anchorage, for appellants in 2407.

Gerald L. Sharp, City-Borough Atty., Juneau, amicus curiae for appellants in No. 2407.

William F. Tull, Palmer, amicus curiae on behalf of Mat-Su Borough.

John Ken Norman & Gary Thurlow, Anchorage, amicus curiae on behalf of Greater Anchorage Area Borough.

Charles Cranston & Vernon L. Snow, of Gallagher, Snow & Cranston, Anchorage, for appellees in 2407; Cross-Appellants in 2418.

Peter Argetsinger, Asst. Atty. Gen., Anchorage, Avrum Gross, Atty. Gen., Juneau, for State of Alaska.

OPINION

Before RABINOWITZ, C. J., CONNOR and BOOCHEVER, JJ., and DIMOND, J. Pro Tem.

CONNOR, Justice.

This appeal and cross-appeal present the question of whether the formation of the Eagle River-Chugiak Borough was validly accomplished under the Alaska Constitution. At the center of the conflict are two constitutional provisions:

"The legislature shall pass no local or special act if a general act can be made applicable. Whether a general act can be made applicable shall be subject to judicial determination. Local acts necessitating appropriations by a political subdivision may not become effective unless approved by a majority of the qualified voters voting thereon in the subdivision affected." Alaska Const., art. II, § 19.

"The entire State shall be divided into boroughs, organized or unorganized.

They shall be established in a manner and according to standards provided by law. The standards shall include population, geography, economy, transportation, and other factors. Each borough shall embrace an area and population with common interests to the maximum degree possible. The legislature shall classify boroughs and prescribe their powers and functions. Methods by which boroughs may be organized, incorporated, merged, consolidated, reclassified, or dissolved shall be prescribed by law." Alaska Const., art. X, § 3.

Appellants assert that the prohibition against local or special acts renders invalid Ch. 145 SLA 1974 by which the Eagle River-Chugiak Borough was organized. They argue that the legislature created a borough by a local or special law when a general law could have been made applicable, and that the "general law" constitutional provision controls the operation of legislative power under art. X, § 3, of the Alaska Constitution. They conclude, therefore, that Ch. 145 SLA 1974 is unconstitutional and that the borough created by the legislature is invalid.

Appellees support the validity of the borough by arguing that the legislative act was not local or special legislation, that even if it was local or special legislation the constitutional prohibition does not apply because a general law cannot be made applicable to the particular subject matter of the legislative act, and that the legislature possesses independent power under art. X, § 3, of the Alaska Constitution, apart from the provisions of art. II, § 19, to create the Eagle River-Chugiak Borough.

I.

The Eagle River-Chugiak area extends from the northeast limits of the City of Anchorage to the Knik River Bridge, and comprises about 738 square miles, slightly less than one-half of the total area of the Greater Anchorage Area Borough as it previously existed. It is located wholly within what was the Greater Anchorage

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Area Borough. The area has a population of about 8,500 persons, about 2,500 of whom live in what is regarded as the community of Eagle River. There are no cities of any statutory class within the area. Eagle River lies about 3.7 miles from the corporate limits of the City of Anchorage and about 13 miles from downtown Anchorage. The area is largely residential in land use and most of its work force is employed within what has been the Greater Anchorage Area Borough.

In 1974 the legislature passed Ch. 145 SLA 1974, which became law without the governor's approval. The act provided for an election concurrent with the next statewide election following its passage, to be conducted solely within the Eagle River-Chugiak area, on the question of whether the area should be incorporated as a second class borough. If a majority voted "no" in the first election, the act provided for a subsequent election in which the voters would decide whether the area should be incorporated as a second class city. The election on borough incorporation took place on August 27, 1974, and the proposition passed by a vote of 1,233 to 979. Under the terms of the act, the area then became incorporated.

The act required the Local Boundary Commission to hold a public hearing before the election, and to review the boundaries set forth in the act after the election. Additionally, the Commission was required to promulgate a plan of apportionment, after which the Lieutenant Governor was required to, and did, on December 3, 1974, conduct an election for municipal officers.¹

1. Other transitional steps include a determination by the Local Boundary Commission, subject to judicial review, of the allocation of debts and assets between the new borough and the Greater Anchorage Area Borough, and written notice by the new borough of its intention to assume its powers. These steps have not been taken, but the act requires that the new borough assume its powers no later than the end of the current fiscal year, i. e., June 30, 1975. In the meantime the Greater Anchorage Area Borough

Prior to the enactment of Ch. 145 SLA 1974 there existed, and still exists, a comprehensive statutory system for the incorporation of boroughs, including those to be established within the boundaries of boroughs already in existence.² The general law scheme for organizing a borough consists of a petition to the Department of Community and Regional Affairs, a review of that petition for form by the Department, public hearings by the Local Boundary Commission, and a decision by the Commission as to whether the standards set out in the statutes have been met. In the event of favorable Commission action, an election can be held within the area proposed for incorporation. When a new borough is to be created within an existing one, both a new incorporation and a change in existing boundaries must occur, and the action must be approved at an election within the new borough. The action may also be conditioned upon electoral approval within the existing borough, and it must be submitted to the legislature.

Appellants brought an action on October 30, 1974, seeking to have Ch. 145 SLA 1974 declared unconstitutional and void and seeking to have enforcement of that statute enjoined. On November 22, 1974, appellants sought a preliminary injunction against conducting the election for municipal officers which was scheduled for December 3, 1974. On November 27, 1974, the superior court entered a temporary restraining order which allowed the election to proceed but prohibited certification of the results pending a further hearing. That further hearing was held on Decem-

must continue to assess and collect taxes in the new borough until that date, and allocate to the new borough an amount to be determined by the Local Boundary Commission, subject to judicial review. Under the act the Greater Anchorage Area Borough has been prohibited from transferring assets or authorizing bonded indebtedness in the new borough since September 12, 1974.

2. See AS 29.18.030 et seq.

her 20, 1974. On December 20, 1974, oral argument was presented to the superior court, and that court entered a declaratory judgment to the effect that Ch. 145 SLA 1974 was local and special legislation, but was not violative of art. II, § 19, of the Alaska Constitution. Appellants filed this appeal on December 23, 1974, and were granted a stay pending the decision of the appeal. This court also entered an order expediting the appeal because the questions presented obviously should be decided promptly for the benefit of the affected governmental entities and the public.

II.

[1] The first question is whether Ch. 145 SLA 1974 is a local or special act. Our previous opinions in *Boucher v. Engstrom*, 528 P.2d 456 (Alaska 1974), and *Walters v. Cease*, 394 P.2d 670 (Alaska 1964), provide background for the resolution of this question. In *Walters v. Cease*, we held that the Mandatory Borough Act, Ch. 52 SLA 1963, was local and special legislation, and that it could not constitutionally be submitted to the voters for adoption by referendum.³ In *Boucher v. Engstrom*, we held that an initiative to relocate the state capital did not amount to special or local legislation, and thus could be placed upon the ballot. We observed that legislation does not become "local" merely because it operates only on a limited number of geographical areas rather than on a statewide geographical basis. A legislative act may affect only one of a few areas and yet relate to a matter of statewide concern or common interest. *Boucher v. Engstrom*, *supra*, 528 P.2d at 461-62.

[2] *Boucher v. Engstrom* does represent a retrenchment on the definition of

3. Alaska Constitution, art. XI, § 7, provides: "The initiative shall not be used to dedicate revenues, make or repeal appropriations, create courts, define the jurisdiction of courts or prescribe their rules, or enact local or special legislation. The referendum shall not be applied to dedications

"local" found in *Walters v. Cease*. But the ultimate question is whether a legislative act, attacked as "local" or "special", is reasonably related to a matter of common interest to the whole state.⁴

[3] In the case at bar it appears that Ch. 145 SLA 1974 is both special and local legislation. The act provides a method of creating a new borough which is peculiar to the locality where it is applicable. The subject matter can hardly be said to be of statewide interest or impact.

Specifically, the operation and scope of the act are limited to the Greater Anchorage Area Borough. The act creates law which affects only the governmental structure of the Greater Anchorage Area Borough and the Eagle River-Chugiak area lying within it. It can have no effect upon any other part of the state. It purports to create a new local government, and does so without regard to the general statutory provisions that prescribe the method that otherwise governs the creation of new local governmental entities from existing ones. In our opinion the legislation is clearly special and local in nature.

III.

[4] This brings us to the next question. Appellees argue that even if Ch. 145 SLA 1974 is a local or special act, it is permissible legislation. The Alaska Constitution forbids local or special acts only "if a general act can be made applicable." Whether a general act can be made applicable is subject to judicial determination. We find AS 29.18.030 et seq. to be an applicable general law.

Appellees argue that the Eagle River-Chugiak area is unique and that this justifies the special treatment given to it by the legislature. The trial court found that the

of revenue, to appropriations, to local or special legislation, or to laws necessary for the immediate preservation of the public peace, health, or safety."

4. *Boucher v. Engstrom*, 528 P.2d 456, 463 (Alaska 1974).

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Eagle River area has a separate identity, that it has been a distinct community in the Anchorage bowl, and that it is the only large "exurban" community in Alaska. Appellees point out additionally that the area is separated from the rest of the Greater Anchorage Area Borough by the Chugach Mountains, the Chugach State Park, and by military reservations. A majority of the electorate of the area has voted against a unified Greater Anchorage Area Borough and against extension of areawide power by the borough over the area.

We do not find this justification persuasive. Numerous other localities within organized boroughs can also claim to be unique in certain respects. Examples come readily to mind.

Douglas, with a 1970 population of 1,243, located on an island across from the state capital, can claim to be distinct, providing a largely residential community for persons working in the capital city. Historically Douglas was a city proudly separate from Juneau. Similarly, it could be claimed that College, with a 1970 population of 3,434, is the only community surrounding the central state university. Nearly every neighborhood or locality within an existing borough can assert some peculiarity or characteristic which distinguishes it from the rest of the borough. If this is all that is needed to justify a departure from general law, then the legislature could, by special act, create many new boroughs out of old ones on an ad hoc basis. We do not think this is what the framers of our constitution intended.⁵

We find nothing in the nature of the Eagle River-Chugiak area which justifies a departure from the general law scheme of

incorporating a new borough. Those unusual aspects which appellees have ascribed to the area present no insurmountable barriers to creating a new borough by following the procedures set forth in AS 29.18-030 et seq. Therefore, we hold that Ch. 145 SLA 1974 contravenes the provisions of art. II, § 19, of the Alaska Constitution.

IV.

[5] Finally, appellees urge that under Art. X, § 3, of the Alaska Constitution the legislature is given broad power over the methods by which boroughs may be organized, incorporated, or dissolved. From this, it is argued, the legislature derives power to enact such laws as Ch. 145 SLA 1974 despite the prohibition of art. II, § 19, of the Alaska Constitution.

[6] But Art. II, § 19, governs the exercise of all legislative powers expressly granted by other portions of the constitution. There is no intimation in its language or in the articles concerning local government which would create an exception to this prohibition against local or special laws.

[7] It is an undisputed maxim of constitutional construction that different provisions of the document shall be read so as to avoid conflict whenever possible. Thus, "[w]henver possible, all provisions should be given effect, and each interpreted in light of the others, so as to reconcile them, if possible, and to render none nugatory." *Lemon v. Bossier Parish School Board*, 240 F.Supp. 743, 744 (W.D.La.1965).⁶ We have carefully read the debates and discussions during Alaska's constitutional convention as they relate to the import of art.

5. *Accord*, *State v. Hodgson*, 183 Kan. 272, 326 P.2d 752, 732 (1958); *see also* *Albuquerque Met. Arroyo Flood Control Authority v. Swinburne*, 74 N.M. 487, 304 P.2d 908 (1964).

6. *Accord*, *People v. Western Air Lines*, 42 Cal.2d 621, 268 P.2d 723, 732 (1954), appeal

dismissed, 348 U.S. 850, 75 S.Ct. 87, 90 L.Ed. 077; *Cooper Motors v. Board of County Commissioners*, 131 Colo. 78, 270 P.2d 685, 688 (1955); *Latting v. Cordell*, 197 Okl. 369, 172 P.2d 397, 399 (1946).

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II, § 19, and art. X.⁷ We find nothing in these discussions which would indicate that art. X, § 3, was intended to operate as an exception to the "general law" rule of art. II, § 19. Indeed, if every grant of power were read as an exception to the "general law" provision, that provision would be rendered wholly nugatory in its effect.

We conclude that nothing in the local government articles of the Alaska Constitution overrides the prohibition of art. II, § 19.

Having found the questioned act invalid, we reverse the judgment below and remand for the entry of a judgment in favor of appellants.

7. See Const.Conv.Min. pp. 1760-70, 1774, 1824-27, 2768-71 (Jan. 10-25, 1956).

LOCAL BOUNDARY COMMISSION

In re the petition for detachment)
of the Chugiak-Eagle River area)
from the Greater Anchorage Area)
Borough, and the petition for)
incorporation of a second class)
borough in the Chugiak-Eagle River)
area.)
_____)

STATEMENT OF DECISION

Whereas, in July, 1975, petitions requesting detachment from the Greater Anchorage Area Borough and subsequent incorporation of a second class Chugiak-Eagle River Borough were submitted to the Department of Community and Regional Affairs in accordance with Title 29 of the Alaska Statutes; and

Whereas, the Department in September, 1975, found the petitions in the proper form with the requisite content and accompanying exhibits; and

Whereas, upon receipt of the sufficient petition the Local Boundary Commission scheduled a public hearing with notice as prescribed by law; and

Whereas, the Local Boundary Commission held a public hearing at the Chugiak High School on October 29, 1975; and

Whereas, the Local Boundary Commission held a public decisional meeting in Anchorage on December 11, 1975, to review the record of the Chugiak-Eagle River petitions;

Now, therefore, the Local Boundary Commission makes the following findings of fact and enters its decision pursuant thereto:

(1) The proposed petition fails to meet statutory and regulatory standards for detachment and incorporation contained in AS 29.18.030 and AAC 19.15.230 in that the area is an integral part of the municipality of Anchorage culturally, socially and economically.

(a) The Glenn Highway, which will ultimately be four-lane between Anchorage and Eagle River joins the two areas. Traffic counts obtained from the State Department of Highways were submitted to the Commission and reflect that between Eagle River and the Glenn Highway entrances to the Fort Richardson military installation there were 19,400 average daily trips, and between Muldoon Road and Anchorage there were 18,100 average daily trips. These figures indicate a great deal of traffic between Anchorage and Eagle River-Chugiak.

(b) In addition to private transportation, figures from the Anchorage Municipal transit system regarding the Eagle River-Anchorage route indicate that in two weeks in 1975, 1158 persons rode the bus between Eagle River and Anchorage. Testimony was introduced at the hearing which indicates that many persons in the Eagle River area work and shop in Anchorage. The traffic figures bear this out. The area is in fact an 'exurban' area or a 'bedroom community' of Anchorage.

(c) The proposed borough further reflects its bedroom status in that there are almost no social or cultural activity centers in the area. The testimony on record reflects that many residents of Eagle River-Chugiak come to Anchorage for movies, theatre, music and other activities of a like nature. This further reinforces the integration of the area with Anchorage.

(2) There are no natural boundaries separating the area from the remainder of the Anchorage municipality. There is a distance of 15 miles between the downtown Anchorage area and the population center of the proposed borough. The only barrier is one of land use, the military

military reservation is not a barrier. In addition, the Glenn Highway runs through the military reservation joining the two areas, furthering the fact of contiguity of the two areas.

(3) The detachment will be inimical to the interest of the State in that the constitutional mandate of a minimum of local government units and tax levying jurisdictions would be violated. The Commission finds that the entire Anchorage area is an integrated area and that the existing borough embraces an area and population with common interests to the maximum degree possible as required by the Constitution.

The record does not reflect that the interests and needs of the Eagle River-Chugiak area differ sufficiently from metropolitan Anchorage to create a separate borough.

(4) The area is not stable enough to support organized borough government in that the Eagle River-Chugiak tax base is not large enough to support necessary services without the support of the larger tax base of the entire Anchorage area. This is based upon the following facts submitted to the Commission.

(a) The assessed valuation for the 1975-6 tax year is \$134,598,035. The population is 8,402. As previously held, the area is a bedroom community of Anchorage with little business development in the Eagle River-Chugiak area. The Eagle River area receives schools, planning and zoning, tax assessment and collection, animal control, sewers, health protection and transportation services from the Anchorage Municipality. The larger tax base of Anchorage has helped provide bond monies for schools in the area. Higher levels of some services are being provided to Eagle River-Chugiak residents than to other areas of Anchorage, i.e., health center and library.

(b) Under the budgets prepared by the then Chugiak-Eagle River Borough, the tax rates would have been 18.96 mills

(Eagle River) and 17.20 mills (Chugiak) as compared to the current rates of 12.61 mills and 11.40 mills. Many residents of the area testified to their belief that the area could not afford a separate government.

(c) A review of Chugiak-Eagle River Service Areas elections since 1966 reflects that only 2 issues passed, fire protection for Eagle River and Chugiak, whereas, the residents turned down an earlier fire issue, roads and drainage, parks and recreation, and as late as March 1974, police protection. The Commission construes these facts as indicating an unwillingness and/or inability to support needed municipal functions.

(5) The Eagle River-Chugiak area is guaranteed representation on the assembly of the Municipality of Anchorage and the charter of the new unified government provides for the creation of Community Councils.

(6) The Service Area concept provided for in Alaska Statutes is retained in the new charter and affords the residents of the Eagle River-Chugiak area an opportunity to request the addition of new services or to increase the level of existing services in the area.

(7) There have been no significant changes other than increase in population in the area since incorporation under the provisions of Chapter 52 SLA 1963, and accordingly, the Commission finds there is no justification for modifying the original boundaries of the Greater Anchorage Area Borough set by the Legislature.

The Commission is aware of the Goat Creek Detachment, the conformance of the Greater Anchorage Area Borough boundaries to metes and bounds description and the correction to the southern boundary description of the Greater Anchorage Area Borough.

In accordance with the above findings, the Local Boundary Commission rejects the detachment petition and therefore does not consider the petition for incorporation of the proposed borough as that issue is moot.

Dated at Anchorage, Alaska, this 15th day of March, 1976.

LOCAL BOUNDARY COMMISSION

Approved:

s/ Sigvald J. Strandberg
Sigvald J. Strandberg, Chairman

s/ Sheila G. Jones
Sheila G. Jones

s/ _____
Josephine Anderson

s/ _____
Oliver Leavitt

Dissent:

s/ _____
Gary Ackerman

BEFORE THE DEPARTMENT OF COMMUNITY
AND REGIONAL AFFAIRS OF THE STATE OF ALASKA

IN RE THE INCORPORATION OF)
THE PROPOSED NEW CHUGIAK - EAGLE)
RIVER BOROUGH WHICH INCORPORATES)
THE GREATER CHUGIAK - EAGLE RIVER)
AREA DETACHED FROM THE GREATER)
ANCHORAGE AREA BOROUGH.)

PETITION FOR INCORPORATION AS A BOROUGH OF THE SECOND CLASS

The undersigned qualified voters of the area to be incorporated petition the Department of Community and Regional Affairs to initiate the necessary and proper procedures pursuant to Title 29, Chapter 18, Article 2 of the Alaska Statutes (AS 29.18.050 - 29.18.150), to accomplish the following.

I. PETITIONERS: The designee of the petitioners is:

Chugiak - Eagle River Borough Association

Chairman Lee B. Jordan

1st Vice Chairman Leslie F. Fetrow

2nd Vice Chairman Ernest Brannon

Secretary Gene E. Merchant

Asst. Secretary - Treasurer

Robert C. Johnson

The following are co-sponsors of the Petition:

Charles Graham

Delores Steeby

Thomas Brewer

Ron Stephens

Elsie Oberg

Robert Robinson

Galen Atwater

Elaine Robinson

Frances Atwater

Ray Stith

Joe Kapella

Thillman Wallace

Marianna Koehler

Claire Muetz

The mailing address is P. O. Box 700, Eagle River, Alaska, 99577.

II. CLASS: The petitioners seek to incorporate a borough of the second class.

III. NAME: The name of the proposed borough shall be the Chugiak - Eagle River Borough.

IV. BOUNDARIES: The boundaries of the proposed borough, more particularly stated and illustrated by the map attached as Exhibit A are as follows:

All that land included in the Greater Anchorage Area Borough and lying northerly of the following line: commencing in Knik Arm on the west boundary of the Greater Anchorage Area Borough and on the south boundary of Section 17, T14N, R3W, S. M; thence east along the south boundary of sections 17, 16, 15, 14 and 13, T14N, R3W, S. M; thence east along the south boundary of sections 18, 17, and 16, T14N, R2W, S. M; thence south between sections 21 and 22, thence east along the south boundary of sections 22, 23, and 24, T14N, R2W, S. M; thence southeasterly to the southwest protracted corner of section 1, T12N, R1W, S. M; thence southeasterly to the southwest protracted corner of section 34, T12N, R2E, S. M; thence east along the south boundaries of townships 12N, ranges 2E, 3E, 4E and 5E to the east boundary of the Greater Anchorage Area Borough.

V. COMPOSITION AND APPORTIONMENT OF BOROUGH ASSEMBLY: The borough assembly shall consist of seven members for the first assembly following incorporation and until such time as the reapportionment is accomplished under law. The assembly shall be elected as follows: two members elected from Precinct 147; two members from Precinct 148; and one member each from Precincts 149, 150 and 151 but voted on at large in all three precinct. A mayor shall be elected at large. A school board consisting of five members shall be elected at large.

VI. POWERS: The proposed Chugiak - Eagle River Borough shall exercise the areawide powers and duties prescribed by law, (AS 29.33.250) including assessment and collection of taxes, education, planning, platting and zoning, sewers, health, transportation, dog control, library; all areawide and non-area-wide powers presently performed by the Greater Anchorage Area Borough in the defined area to be incorporated; and any additional areawide powers that may be required in accordance with AS 29.33.250, Additional Areawide Powers.

VII. MAPS, DOCUMENTS, AND OTHER INFORMATION:

- Exhibit A - Legal description of boundaries and map illustrating boundaries
- Exhibit B - 1970 Census and estimate of population
- Exhibit C - The assessed and estimated valuation of all taxable property in the area proposed for incorporation.
- Exhibit D - The rate or rates at which real and personal property are taxed in the area.
- Exhibit E - Narrative on school program
- Exhibit F - The amount and full explanation of any outstanding bonded indebtedness for which the area is wholly or partially responsible.
- Exhibit G - Affidavit of petitioners as to service of petition upon municipalities in or adjoining the area proposed for incorporation.
- Exhibit H - Transitional inter-municipal agreements
- Exhibit I - Affidavit of Petitioners as to sources of information.
- Exhibit J - Written brief supporting reasons

VIII. SIGNATURE AND RESIDENT ADDRESS:

Whereas 2,658 persons in the proposed Chugiak - Eagle River Borough voted in the last general election, November 1974, the following 15% or more petitioners hereby affix their signatures for the following purposes:

- A. To indicate their firm convictions in the allegations of this petition and that the incorporation of the proposed borough would be in the best interest of the communities affected and in the best interest of the State of Alaska as expressed in Article X, Section 3, of the Constitution of the State:

BOROUGHS

SECTION 3. "The entire State shall be divided into boroughs, organized or unorganized. They shall be established in a manner and according to standards provided by law. The standards shall include population, geography, economy, transportation, and other factors. Each borough shall embrace an area and population with common interests to the maximum

degree possible. The legislature shall classify boroughs and prescribe their powers and functions. Methods by which boroughs may be organized, incorporated, merged, consolidated, reclassified, or dissolved shall be prescribed by law."

B. The petitioners submit:

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

PETITION FOR INCORPORATION OF THE CHUGIAK - EAGLE RIVER AREA AS A SECOND CLASS BOROUGH

Printed Name	Signature	Residence Address	Mailing Address	Voter Reg. No.
EDWARD A. BELLINGER	<i>Edward A. Bellinger</i>	MT. ERKUTNA DRIVE	P.O. Box 90, CHUGIAK, AK	00423624
HARRIET S. BELLINGER	<i>Harriet S. Bellinger</i>	Mt. Erkutna Drive	P. O. Box 90 Chugiak, Ak	00741371
ARNOLD L. OLSON	<i>Arnold L. Olson</i>	Mile 18 ^{Old Glenn} Chugiak	ST. RT. Box 445 Eagle River	00620054
EDITH D. WEST	<i>Edith D. West</i>	Ymate. Ak.	P.O. Box 836 Eagle River	00418509
ARLENE E. OLSON	<i>Arlene E. Olson</i>	St. Rt. Mile 18 Old Glenn	St. Rt. Box 445, Eagle River	00620047
ROSE MARIE SEE	<i>Rose Marie See</i>	Juanita Sp Rd	P.O. Box 144 Eagle River	00418038
MERRY SMITH	<i>Merry Smith</i>	Juanita Sp. Rd.	P.O. Box 144 Eagle River	01743186
CHARLES JOHNSON	<i>Charles Johnson</i>	Juanita Sp Rd	PO Box. 144 Eagle Riv.	01290808
JACK J. SEE	<i>Jack J. See</i>	Juanita Sp Rd	PO Box 144 ER	01223650
LILA C. FERGUS	<i>Lila C. Fergus</i>	Durara Road off Birchwood	PO Box 186 Chugiak	00977611
RAY SMITH	<i>Ray Smith</i>	Crescent Rd.	P.O. Box 438 E.R. AK	00619569
ERNEST T. FOSTER	<i>Ernest T. Foster</i>	JUANITA LOOP Box 83	EAGLE RIVER, AK 99577	01814169
MARY GLORIA BREWER	<i>Mary Gloria Brewer</i>	WHIRLAWAY ST.	PO. BOX 643 ER: AK 99577	01984483
JOHN A. HUNTSMAN	<i>John A. Huntsman</i>	KLONDIKE ST	KLONDIKE ST. BOX 79 CHUGIAK AK 99567	00982132
HOLLY R. WRIGHT	<i>Holly R. Wright</i>	5 mile Eagle River Rd.	St. Rte, Box 196-C, Eagle River	
ELTON B. CROSS	<i>Elton B. Cross</i>	mile 15.5 old Glenn Hwy	Box 407 Eagle River. AK	00619544
EULALIA E. CROSS	<i>Eulalia E. Cross</i>	Mile 15.5 old Glenn Hwy	Box 407 Eagle River AK	Signed this before

BEFORE THE DEPARTMENT OF COMMUNITY
AND REGIONAL AFFAIRS OF THE STATE OF ALASKA

IN RE THE DETACHMENT OF THE)
GREATER EAGLE RIVER - CHUGIAK)
AREA FROM THE GREATER ANCHORAGE)
AREA BOROUGH.)

PETITION FOR DETACHMENT

The undersigned qualified voters of the area to be detached from the Greater Anchorage Area Borough petition the Department of Community and Regional Affairs to initiate the necessary and proper procedures pursuant to Title 19, Chapter 15, Article 2 of the Alaska Administrative Code (19 AAC 15.170-15.270).

(1) The undersigned qualified voters represent more than 10% of the qualified 4,130 voters residing in the area to be detached.

(2) The designee of the petitioners is:

Chugiak - Eagle River Borough Association

Chairman Lee B. Jordan

1st Vice Chairman Leslie F. Fetrow

2nd Vice Chairman Ernest Brannon

Secretary Gene E. Merchant

Asst. Secretary - Treasurer

Robert C. Johnson

The following are co-sponsors of the Petition:

Charles Graham
Delores Steeby
Thomas Brewer
Ron Stephens
Elsie Oberg
Robert Robinson
Galen Atwater

Elaine Robinson
Frances Atwater
Ray Stith
Joe Kapella
Thillman Wallace
Marianna Koehler
Claire Muetz

The Chugiak - Eagle River Borough Association is an unincorporated association of registered voters of the Chugiak - Eagle River area.

The Chairman, Lee B. Jordan, mailing address P. O. Box 700, Eagle River, Alaska, 99577, is designated as attorney-in-fact to receive service, notice and all other correspondence relating to the proceedings in behalf of the petitioners.

(3) The boundaries of the area to be detached, known as the Chugiak - Eagle River area consisting of Fire Lake, Birchwood, Peters Creek, Eklutna, Eagle River Valley, South Fork, Chugiak and Eagle River, stated in the legal description and illustrated by the map attached as Exhibit A are as follows:

All that land included in the Greater Anchorage Area Borough and lying northerly of the following line: commencing in Knik Arm on the west boundary of the Greater Anchorage Area Borough and on the south boundary of Section 17, T14N, R3W, S.M; thence east along the south boundary of sections 17, 16, 15, 14 and 13, T14N, R3W, S.M; thence east along the south boundary of sections 18, 17, and 16, T14N, R2W, S.M; thence south between sections 21 and 22, thence east along the south boundary of sections 22, 23, and 24, T14N, R2W, S.M; thence southeasterly to the southwest protracted corner of section 1, T12N, R1W, S.M; thence southeasterly to the southwest protracted corner of section 34, T12N, R2E, S.M; thence east along the south boundaries of townships 12N, ranges 2E, 3E, 4E and 5E to the east boundary of the Greater Anchorage Area Borough.

(4) The 1970 Census of Population lists 5,832 persons living in the Eagle River - Chugiak community.

The Greater Anchorage Area Borough publication, Preliminary Comprehensive Development Plan, Volume 1, February 1973, states the following under the heading, "Population Characteristics of Small Areas:"

"Certain communities have shown significant increases in actual and relative population growth. Communities that have grown at a faster rate than the Borough as a whole are Muldoon, Lake Otis, Sand Lake and Eagle River - Chugiak." (Emphasis added)

The same publication projects the population of the Eagle River - Chugiak community as tabulated:

1970	5,832 (U. S. Census)
1975	10,010 (GAAB figures)
1980	12,063
1985	16,979
1990	23,524

The Chugiak - Eagle River Borough Association agrees with the Greater Anchorage Area Borough that the estimated 1975 population is 10,010 based upon the data and evaluation listed in the attached Exhibit B.

(5) The quantity of land within the boundaries of the area to be detached is approximately 53,200 acres or approximately 830 square miles.

(6) The assessed value of all real and personal property within the area to be detached is shown as follows in the Greater Anchorage Area Borough Annual Budget, Fiscal Year 1975 - 1976:

	<u>1974</u>	<u>1975</u>
Eagle River	64,397,015	69,202,215
Chugiak	27,081,925	53,650,025
Balance - Service Area 70	13,203,910	16,424,760
	<hr/> 104,682,850	<hr/> 138,677,000

The foregoing assessed value is based on 1975 assessments. Supporting data and evaluation is listed in detail in Exhibit C.

(7) The current (Fiscal Year 1975) rates at which real and personal property are taxed in the area to be detached are as follows:

<u>Service Area</u>	<u>Rate</u>
Chugiak	12.445
Eagle River	13.445
Area outside service areas	12.045

(8) Based on a percentage of assessed value, it has been determined that the area proposed for incorporation has an obligation for 5.27003629% of the 1975 debt of the Greater