

ALASKA LEGISLATURE COMMITTEE FILES 1965-1966 00/2

3847 SCRA LOCAL BOUNDARY COMM. REPORT, 14TH LEG. / 2ND SESSION 783

1 interpretation, but I think we should also listen to Nome.
2 It can be looked at from the other side too. The North
3 Slope Borough voters determining their future and the future
4 of part of the land within their boundary, of course, have
5 made a vote that they don't feel this area should be
6 detached. I say that mainly for the record. I feel a more
7 direct self determination concept of people in Noatak and
8 Kotzebue far outweighs this other interpretation of the North
9 Slope Borough self determination.

10 COMMISSIONER ANDERSON: These people you just men-
11 tioned are really going to feel the impact of.....

12 COMMISSIONER HANSON: (Indiscernible - simultaneous
13 speech).....

14 COMMISSIONER ANDERSON: Right. I can imagine that they
15 are concerned very greatly about.....

16 COMMISSIONER HANSON: They have not had the opportunity
17 to vote.

18 COMMISSIONER ANDERSON: That's right.

19 CHAIRMAN BETTISWORTH: Is there any other comment on
20 Factor No. 4?

21 COMMISSIONER HANSON: Do you want to wait to make your
22 summarization on that, or.....

23 CHAIRMAN BETTISWORTH: I think the factors -- or the
24 facts are fairly well stated at this point. Wilson, there
25 was a question that came up on the business of the A.D.A.

1 loan, the A.D.A. bonding up the road, and the issue that
2 the North Slope Borough raised that that actually provides
3 a tax resource to a potential NANA borough. And our concern
4 was how to -- and the counter to that was that Jeff Smith
5 stated that no, that's not possible because of the way in
6 which those A.D.A.'s -- A.D.A. bonds and that A.D.A.
7 financing is structured. I don't understand that, and I
8 don't know whether you do, but at least we thought we might
9 ask to see if you had an idea of what the factors there.....

10 SPECIAL COUNSEL CONDON: No.

11 COMMISSIONER HANSON: We'd like to discuss it again
12 tomorrow morning.

13 CHAIRMAN BETTISWORTH: Okay. Any more comments on
14 Factor 4?

15 COMMISSIONER HANSON: I'll just make a quick summariza-
16 tion. It appears that due to the predominance of the
17 evidence, which seems to indicate detachment is necessary
18 for the Northwestern area -- proposed Northwestern area
19 borough to be viable, and thus would be maximizing govern-
20 ment, that we will look at the other option of the taxing
21 the road tomorrow, that self determination factor for the
22 peoples most affected by what happens in the detachment area
23 is very clear, and that that would refer to Noatak, Kivalina
24 and Kotzebue primarily, and they have no self determination
25 now, we would be maximizing their local self government if

1 the detachment goes through and the borough is formed. The
2 same is true of those people having some control over their
3 watershed and what happens in it, which also comes down to
4 they're outside the government now that has that control.
5 If it was detached they would be inside the government that
6 had the control. But we say this, still being aware that
7 there is a certain financial -- minor financial impact on
8 the North Slope Borough (indiscernible - papers rattling)
9 factor in more detail. And we recognize how the North Slope
10 Borough voters feel and still come to this conclusion, that
11 the detachment would maximize local self government.

12 CHAIRMAN BETTISWORTH: I guess this whole factor is
13 assuming that there would be a NANA region borough formed.

14 COMMISSIONER HANSON: Since the petition conditions
15 the detachment on that.

16 CHAIRMAN BETTISWORTH: Okay, Factor No. 5: Will the
17 proposed detachment facilitate resource development in north-
18 west Alaska. Let's take five minutes to review these cita-
19 tions.

20 (Off record)

21 CHAIRMAN BETTISWORTH: Reconvene and discuss the
22 issue number five -- Factor No. 5: Will the proposed detach-
23 ment facilitate resource development in northwest Alaska.
24 What I'd like to do is go through the citations, the brief
25 in support of the petition at pages 30 and 31, the

1 petitioner discusses the issue that the detachment and the
2 consequent formation of a NANA regional borough would provide
3 sufficient development of the mine and if you coordinated road
4 and transportation system and the mine development that
5 you've got all those activities under one governmental
6 agency as opposed to two, where they were under -- the mine's
7 under the North Slope Borough and the road and transportation
8 system, majority of which was under the -- under NANA or
9 unorganized borough. They talk about a unified approach and
10 comprehensive, consistent planning and regulation for the
11 entire region. The opposition brief submitted by the North
12 Slope Borough on pages 44 and 45 argues that there is already
13 regulation up there, the -- they talk about the time lag
14 between the formation of the borough and the detachment,
15 discuss the issue of uncontrolled development. I guess one
16 of the responses to that is that -- their citations reference
17 the fact that there are 12 other permitting agencies involved
18 and the North Slope Borough is really only one. And again
19 on page 52 in their summary of findings they basically say
20 there is no correlation between the success of the Red Dog
21 Mine and detachment of the area from the North Slope
22 Borough. The NANA Region brief essentially, at pages 5 and
23 6, again deals with the issue of the unified approach, the
24 planning and regulation, for the entire region. That's in
25 there supporting the petition, the reply to the brief --

1 the opposition brief. Actually, those citations deal more
2 with the issue of whether -- when the detachment -- when the
3 original boundary was formed, whether the commission was
4 aware of the Red Dog and other mineral resources in the area.
5 I guess those are the findings, the facts, as described.
6 I guess I would agree to some extent with the borough's
7 opposition brief which says there really hasn't been a
8 demonstration that the Red Dog or any of the other resource
9 development in the area is dependent upon this detachment
10 and consequent formation of a new borough. That's more of
11 a finding.

12 COMMISSIONER HANSON: I guess I'd add to that. I think
13 it is clear. I mean, the question is will the proposed
14 detachment facilitate resource development in Northwest
15 Alaska. In the nuclear sense, resource development's going
16 to take place whether or not the detachment takes place, is
17 the impression we've been given about Red Dog and other
18 resource development, and I think that's fact. So I think
19 we're down to a much more minor, or a lesser, consideration,
20 and that's will it facilitate resource development. And the
21 main things we seem to have are one side that it will. If
22 we detach and the borough is formed, that's the NANA 12/18
23 response, states the unified approach to such -- we'll have
24 a more unified approach. A unified approach to such matters
25 as land use planning, regulation, environmental protection,

1 and local government permitting, will serve the public
2 interest better by providing for comprehensive and con-
3 sistent planning and regulation of the entire region. They
4 also note other things about the need of not having to deal
5 with two governments, dealing with one, and going just to
6 Kotzebue rather than going to Barrow too for permits and for
7 coordination of the types of services that might be used
8 across the borough line which the detachment area remaining
9 in the North Slope Borough causes, across the development
10 area. That's on one side. That that unification would, in
11 fact -- having one instead of two governments would, in
12 fact -- could be said -- would facilitate resource develop-
13 ment to some extent. I'm not sure it's a -- it may be more
14 a convenience factor than a critical factor, though. On the
15 other side, though, is what the borough has brought up about
16 transitions and whether or not during the transition with
17 no regulatory authority there possibly -- or the new borough
18 having set up a regulatory authority right away, that that
19 is also a consideration. I guess I come down to this is more
20 a neutral, with maybe it would facilitate it a little bit
21 just because of the coordination of government services, but
22 not very critical.

23 CHAIRMAN BETTISWORTH: Ms. Anderson.

24 COMMISSIONER ANDERSON: Well, perhaps if it were
25 detached the interested people in a new borough might

1 promote more resource development because of financial
2 reasons and others.

3 COMMISSIONER HANSON: You mean if it was part of their
4 borough and they were.....

5 COMMISSIONER ANDERSON: Yes.

6 COMMISSIONER HANSON:getting the tax base.....

7 COMMISSIONER ANDERSON: Yes.

8 COMMISSIONER HANSON:they might want a work
9 on.....

10 COMMISSIONER ANDERSON: Their interest might be
11 greater than the other borough would have.

12 COMMISSIONER HANSON: Since they're also the land
13 owners, to a certain extent, though there's state land there
14 too. I imagine to some extent the same argument could be
15 said for being in the North Slope.

16 COMMISSIONER ANDERSON: Yes, I'm sure it could.

17 COMMISSIONER HANSON: I do want to clarify one thing.
18 In talking about the North Slope's argument on transition
19 period, in bringing it up, I want to bring it up as a con-
20 sideration, not a finding that during the transition period
21 if the NANA Borough is formed there won't be adequate govern-
22 ment services. It's something the North Slope Borough claims
23 should be a consideration, but we have seen -- not meaning
24 to document that there won't be adequate coverage as the new
25 borough starts, (indiscernible) that they would have.

1 (Indiscernible) very concerned about (indiscernible - papers
2 rustling). I just wanted to clarify that.

3 CHAIRMAN BETTISWORTH: That will be taken up under 15.
4 Well, are there other comments with respect to No. 5?
5 No. 6: Will the proposed detachment encourage efficiency
6 in provision of local government services to the proposed
7 detached territory. We'll take five minutes to consider the
8 citations, then.

9 (Off record)

10 CHAIRMAN BETTISWORTH: We'll start again. We'll take
11 up consideration of Factor No. 6: Will the proposed detach-
12 ment encourage efficiency in the provision of local govern-
13 ment services to the proposed detached territory. I guess
14 I will start again by going to the briefs. The brief in
15 support as submitted by the petitioner basically talks about
16 the practicality issue, the more practical to provide muni-
17 cipal service to the territory proposed for detachment from
18 the borough serving the NANA region rather than from the
19 North Slope Borough. That assumes that the transportation
20 center would be Kotzebue as opposed to Barrow. I guess --
21 they also go to point out that a borough in the NANA region
22 could more effectively execute the planning powers
23 because they're really dealing with geography similar, in
24 similar areas, the drainages and that kind of thing. If you
25 go to the opposition brief, page 16, they just reiterate what

1 they -- what they really say is that the North Slope Borough
2 did not respond to this -- directly to this question. And,
3 in fact, as you go through the North Slope Borough's
4 response and even the citations that they have listed for
5 us it's really difficult to see how they dealt with that
6 issue at all. And the NANA Region, in their comments on this
7 issue, I'd like to point out it says: The major access to
8 the detachment area will be (indiscernible) road comprised
9 of the DeLong Mountain transportation system. The -- I guess
10 it needs to be pointed out, it does not connect directly to
11 Kotzebue. It does say that most persons to be served in the
12 detachment area now have and will continue to have economic
13 and social-cultural ties to the NANA Region rather than the
14 North Slope Borough, and we're talking about persons to be
15 served would be people at the proposed Red Dog Mine and those
16 people who were actually using the area. I guess that's the
17 major citations from the record. Any comments from the com-
18 missioners?

19 COMMISSIONER ANDERSON: You pulled out the same things
20 I did, so you've already made the comments.

21 COMMISSIONER HANSON: Mr. Chairman, I'll say I also
22 agree with the citations. In thinking about this, when
23 obviously there are so many obvious things that make it appear
24 more efficient: Because it's closer, because they're the
25 same people, because other governments have already decided

1 to serve the area, the regional transportation system set
2 up around Kotzebue for most of this area.....

3 COMMISSIONER ANDERSON: Statewide transportation.

4 COMMISSIONER HANSON: A statewide transportation system
5 is set up around this area, the fact that -- what we talked
6 about already as far as cumbersome government when you have
7 two entities rather than one serving the same area -- there's
8 been no real estimate of cost to the North Slope Borough
9 to bring services to the detachment area as opposed to
10 Kotzebue. Several example factors, such as the cost of air-
11 plane rides to the area from NANA versus -- from Kotzebue
12 versus from Barrow, which have been pointed out in the
13 record, are enough to give pretty good weight to make a
14 reasonable assessment that it's going to be much more
15 efficient if the area is detached, part of the NANA area. The
16 only thing I could come up with in thinking very hard about
17 this one is the transition period element. And as you set
18 up a government it might cost a little bit more to set up
19 your services that you start up, but that's just such a
20 transitory consideration that it barely bears mention when
21 you look at the overall long-term efficiency of government
22 providing services to the area.

23 CHAIRMAN BETTISWORTH: I would guess that that --
24 whether the detachment occurred or not, that inefficiency
25 in start-up is going to be there.

1 COMMISSIONER HANSON: Right. As far as the -- if you
2 have a new borough.

3 CHAIRMAN BETTISWORTH: Mr. Condon.

4 SPECIAL COUNSEL CONDON: I'd just like to make one
5 legal point for you to take this in mind as you consider this
6 factor. That is the North Slope Borough's failure to -- you
7 should not look at the North Slope Borough having failed to
8 address this consideration; their position here is a legal
9 one. They probably would not have a lot to say, but they
10 might, and their consideration here is a legal one and that
11 legal position has been expressed in the memorandum of law
12 which they filed with you while you were in your hearings
13 on the North Slope -- I don't know whether it was when you
14 were in Barrow or elsewhere, but I think it was on the day
15 or in Barrow that the memorandum was filed with you and the
16 legal arguments which they make are carefully stated in the
17 first portion of that memorandum. We did not cite to that
18 memorandum in the work papers that we gave you here. I can
19 give you more copies of it if you want. And I simply note
20 that that's a legal dispute which, if you go ahead and grant
21 the petition, is -- and the North Slope Borough decides that
22 it is not going to accept the -- it and go ahead and litigate
23 it, this will be a question -- a legal question which will
24 be resolved by the courts, I'm sure.

25 CHAIRMAN BETTISWORTH: Could you summarize the legal

1 question?

2 SPECIAL COUNSEL CONDON: Well, if there's any legal
3 argument that they make is that the regulations, as they are
4 -- the regulations that govern detachments, don't address
5 comparative efficiency, and that stepping over and looking
6 into the annexation regulations or something like the annex-
7 ation regulations for guidance is simply -- there's no just
8 -- there is no legal justification, even if there's a policy
9 justification for doing that. And that if you want to enter-
10 tain those kinds of considerations you know how to do it,
11 you can change your regulations and -- so that you just need
12 to know that that's -- that argument is there. The counter
13 argument to that is you certainly do have the standards,
14 which are set forth in your own regulations, in factors --
15 they aren't -- clarify words, factors 1, 2, 3, which go to
16 the determination of the best interest standards. You reserve
17 the right to consider other items. The petitioner came in
18 and put this item on the table, the North Slope Borough had
19 plenty of time to address it, you retained flexibility and
20 it was legal to retain that flexibility. And that's -- but
21 those are the arguments, and a -- if that's the policy
22 decision you want to adopt, if you want to look at compara-
23 tive efficiency here, you don't want to amend your regula-
24 tions in that regard at this time, that's defensible, but
25 I'm not going to guaranty victory. I think you can do it,

1 but I'm not going to guaranty it.

2 CHAIRMAN BETTISWORTH: In fact, what you're saying
3 applies to all these regulations beyond number 3 -- with
4 these standards beyond number 3.

5 SPECIAL COUNSEL CONDON: Well, technically, that's true
6 with respect to many of them. The North Slope Borough has
7 blown a louder bugle than anybody else, so they can hardly
8 complain. When people are talking about the adverse financial
9 impact on the North Slope Borough, you don't see them com-
10 plaining about your consideration of that, and that's
11 beyond 1, 2 and 3. This one hurts, and so they'll -- you
12 expect them to complain.

13 COMMISSIONER HANSON: Mr. Chairman, maybe a clarifica-
14 tion here, has to do with just the wording that was used when
15 we noted that the North Slope Borough's brief in opposition
16 had directly countered the arguments. And I think part of
17 the point here is just that that doesn't necessarily demon-
18 strate anything in and of itself.

19 SPECIAL COUNSEL CONDON: They countered it with a
20 memorandum of law.

21 COMMISSIONER HANSON: Correct. And so I think what
22 we have to do is -- I think the evidence on this one is
23 pretty overwhelming in any case, and if we can make a finding
24 acknowledging that there isn't a lot written on this record
25 by the North Slope Borough.....

1 CHAIRMAN BETTISWORTH: Any other comments with respect
2 to No. 6? All right, then, we'll go on to No. 7. Take five
3 minutes.

4 (Off record)

5 CHAIRMAN BETTISWORTH: We'll take up the issue of
6 Factor No. 7. Factor No. 7 states: Will proposed detach-
7 ment adversely affect the present and future finances of the
8 North Slope Borough. Mr. Hanson.

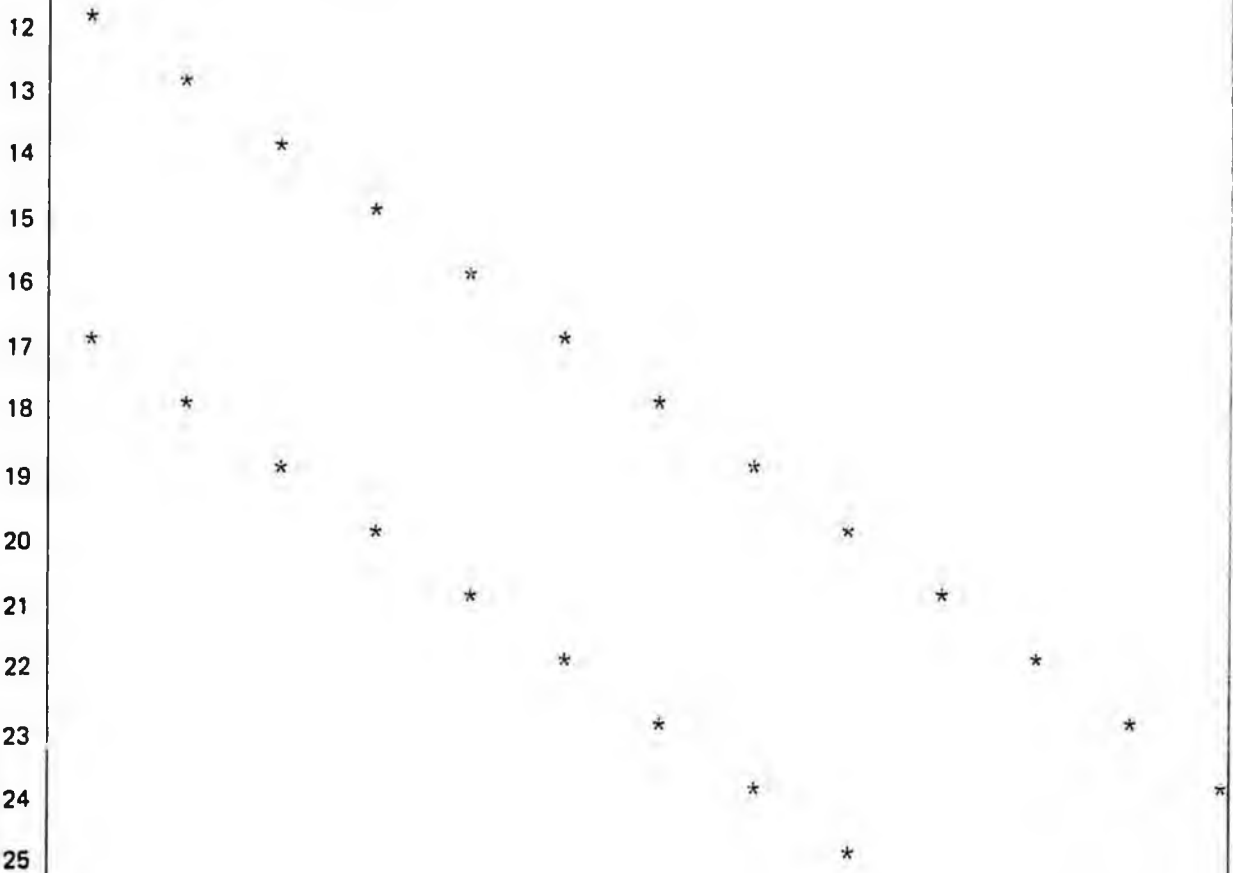
9 COMMISSIONER HANSON: Yes, I've done a little bit of
10 research during the past week, just going back over the
11 testimony and what was said, there was especially the
12 Anchorage hearing, and what was handed to us. There's quite
13 a bit that relates to this question. There were three or
14 four elements that were brought up, or items, of how the
15 North Slope Borough's finances might be impacted. One was
16 their ability to repay bonds and their bond rating. A
17 second one is general erosion of their tax base and loss of
18 tax base. Third was the precedent, the fear that one detach-
19 ment would lead to taking of and detaching of more
20 (indiscernible) taxation areas of the North Slope Borough.
21 I'd just like to briefly -- I can't find my fourth note right
22 now. But of those three, briefly relate to the presentation
23 given by Mr. James Sharp, the director of administrative
24 finance of the North Slope Borough. He gave some valuable
25 information and very good testimony, but he made it very

1 clear that the bonds, the existing bonds, would be paid off,
2 would be paid off I believe his date was 1996, regardless
3 of whether the detachment takes place or not, and that the
4 bonds were not based upon revenue from this detachment area,
5 they were based upon the oil revenue. And I think, being
6 he is who he is, that particular issue as far as the meet-
7 ing bonds, is pretty much put to bed by his own statements,
8 which he was very direct about. His concern had to do with
9 two things One, the tax base and that the North Slope
10 Borough might have a tough time of it in the future,
11 especially after the mid-90's, and he gave us projected
12 property values and how they're going to go down because of
13 decrease in oil revenues. And he indicates that 2005 the
14 Red Dog Mine area, that's 20 years in the future, could
15 become more significant in the borough tax base. However,
16 he admitted that -- or told us that there are certain
17 uncertainties about new oil developments that may take place
18 and add to the tax base which were not taken into considera-
19 tion at this time and could not be. Also, in looking at
20 other factors, figures put in other parts of the record,
21 I find that this was probably a fairly conservative case pre-
22 sented to us. In looking at Legislative Digest from December
23 30th, 1985, article entitled Immunity from Revenue Declines
24 North Slope Borough's Soaring Oil Tax. This was attached
25 to the testimony of Willie Hensley, which he also gave in

1 (indiscernible) -- makes reference to almost 10 billion --
2 an addition of almost 10 billion to North Slope industrial
3 investments over the next ten to fifteen years, which will
4 double the North Slope Borough's tax base. That's a quote
5 from the article. Now, I tried to look at the figures that
6 Mr. Sharp gave us, and I do find that there is some increase
7 of today's \$12.8 billion up to about 15.8, which is a
8 \$3 billion increase over the same period, the article says
9 a 10 to 15 billion dollar increase. I'd just point that out
10 to the commission. I think we have probably a conservative
11 case presented by Mr. Sharp. I'd also mention one of the
12 documents provided to us in the record, a letter sent to
13 Mr. Hetter (ph) November 18th, 1985, by the Commissioner of
14 Revenue, Mary A. Nordell (pn). It states that within the
15 next -- page two: Within the next 20 to 25 years no other
16 basic industry is projected to come on line to supplement
17 the oil and gas industry; however, the key to sustaining and
18 expansion of industry is present aggressive competitive lea e
19 offerings of the federal government and the state govern-
20 ment. My point there is that there's an indication in her
21 memo that there's an expectation that there are other
22 sources of oil revenue coming on line that are fairly
23 significant. In looking at -- so on the tax base question
24 there is also information given to us in a Mr. -- Government
25 Financial Associates gave to us in Anchorage also, showed

1 us the assessed value of Red Dog will be 1.27 percent, and
2 the tax revenue is 1.25 percent when you have tax revenues
3 of 3.6 million a year of assessments, assuming assessments
4 in 1988 and 1989 and tax rates '85 through '88. I only
5 point these out, that it appears that the Red Dog is a small
6 part of the tax base and that there's information going to
7 show that the oil tax base may indeed grow in the future,
8 may indeed grow (indiscernible) maybe the opposite possi-
9 bility is always there. So I think we're dealing with a
10 minor tax base change. The third factor.....

11 (End of tape)



MR. HANSON, CONTINUED:

1Borough quotes. Both Mr. Sharp's testimony in the primary
2 documents was that -- quote, the real fear was, the main
3 threat, was not this area being detached, but was additional
4 areas that had to, quote -- I think it was E.F. Hutton --
5 theoretically, we conclude that it can diminish the borough's
6 taxing authority in areas of the borough which are economically
7 more meaningful to the borough. So, I'll read this paragraph
8 again. It's page two of the E.F. Hutton letter, November 6,
9 1985, given to Mr. James Sharp. It reads, a far greater con-
10 sequence to the North Slope Borough than the potential loss
11 of \$33.26 million in tax revenues over ten years, is the idea
12 the state boundary commission theoretically may conclude that
13 it can diminish the borough's taxing authorities in areas of
14 the borough which are economically more meaningful to the
15 borough. The Standard & Poor's, its letter to James Sharp on
16 November the 18th, 1985, it points out: I would offer the
17 continued loss of assessed valuation because of economic
18 reasons, deannexation proceedings, or detachment by other
19 agencies of authorities would generally be considered detri-
20 mental to the ability of the borough to meet its commitments
21 or general obligations. The main point of all this is that
22 they're all -- the real concern with the financial institutions
23 seem to set forth is the possibility of additional annexation
24 of more meaningful areas of the North Slope Borough. There
25 is a suggestion by -- I believe it was general government

1 services (indiscernible), but its main point was that the
2 best way to eliminate this concern is to assure that the
3 boundary commission uses criteria and chose a sensitivity to
4 the bond ratings, and the financial status and basis of a
5 borough in considering detachment proceedings, and I guess I
6 personally feel that we're definitely doing that in this pro-
7 ceeding, and that it would serve to be a good example of
8 concern to not foresee or being -- taking irresponsible action
9 on cutting off a borough's more -- quote, more meaningful
10 tax base. The other point I'd like to make -- I can't put my
11 hands on it immediately -- but is in the resolution that the
12 borough passed. They had a statement on the July 2nd resolution
13 they passed for setting up the vote on deannexation of
14 244,000 acres -- they had a statement saying, this in no way
15 is construed to be or seen as a precedent for further de-
16 annexations of this borough. This is a unique situation.
17 That's a paraphrase, not a quote. That's

18 CHAIRMAN BETTISWORTH: Any further comments?

19 COMMISSIONER HANSON: That's the comments I have.

20 CHAIRMAN BETTISWORTH: I guess one of the -- the way
21 this factor is stated is, will the proposed attachment adverse-
22 ly affect the present and future finances of the North Slope
23 Borough. In fact, what we've seen is the revenue side of this
24 picture. We haven't looked at the cost side of the picture.
25 There hasn't been any testimony submitted that -- what it would

1 cost to deliver services to the region, either currently, in
2 the near future, or long term, and we'll get back to this
3 business of efficiency here. We did make some comment,
4 although there's still more members to back it up, about what
5 the cost of delivering these services to the borough would
6 be -- or to the region would be.

7 COMMISSIONER HANSON: I guess I -- well

8 CHAIRMAN BETTISWORTH: Do you want to make an observation?

9 COMMISSIONER HANSON: Well, the one thing that -- the one
10 fact that still stands is -- your point is well taken in that
11 the -- of the three factors I mentioned, the one fact that
12 still stands is the borough's tax base would be diminished
13 by -- the figure was 1.27 percent. They factor this -- if
14 you factor in the cost of services to the detached area in the
15 future, that should have some kind of neutralizing affect on
16 the lost tax base though it's -- though we do not have the data
17 to say to what extent. Is that a correct statement?

18 COMMISSIONER HANSON: I wonder, can -- in Staff's reading
19 of the data that's before us in some of the volumes is there
20 anything in here that talks at all about the cost side? Is
21 there anything that we could use as a comparative? Has there
22 been any submitted by the borough that talks about what its
23 cost of providing services at Prudhoe are?

24 SPECIAL COUNSEL CONDON: I have not seer any at all.

25 CHAIRMAN BETTISWORTH: We could -- we could perhaps have

1 this as one of the additional questions we want to check back
2 on tomorrow morning, perhaps just to see if there -- I seem
3 to recall something, but not specifically, on the cost of
4 services to the detached area. I think there was something
5 on the cost of services to Prudhoe.

6 COMMISSIONER HANSON: The -- the assumptions are that the
7 only services to be provided, although this may not be
8 correct, is that -- is planning and zoning. I do know that
9 the Borough does provide utility services to the Prudhoe
10 Bay area

11 CHAIRMAN BETTISWORTH: Uh-huh.

12 COMMISSIONER HANSON: whether they would be required
13 to do similarly at Red Dog, I'm not sure.

14 CHAIRMAN BETTISWORTH: Obviously, this petition at
15 present is that they wouldn't. And considering this question,
16 if we're looking twenty years in the future, we're considering
17 aversion of tax base ten to twenty years away, I guess we have
18 to keep open what kind of services might be made at that
19 point.

20 SPECIAL COUNSEL CONDON: Mr. Chairman, with regard to
21 your question about what's in the record, I do recall that
22 the petitioner on NANA submitted testimony by the present,
23 or former mayor of the North Slope Borough dealing with the
24 question of the cost and burdens of providing services to the
25 service area (indiscernible), as I recall, and that is an

1 attachment or a footnote, or something somewhere, and

2 CHAIRMAN BETTISWORTH: Yeah, could we

3 SPECIAL COUNSEL CONDON: Yeah, I'm trying to search that
4 out; however, it -- but there has been no structured, or
5 focused discussion on the cost that might provide -- the
6 cost that might be involved in providing services to the --
7 to this future development, and there's still -- there hasn't
8 been any fact, any discussion -- or focused discussion on
9 what services might be provided there. Okay. This is an
10 attachment to the comments of NANA region corporation sub-
11 mitted January 3rd, and it is an affidavit filed by Eugene
12 Brower of -- dealing -- in the case of Matanuska/Susitna
13 Borough, Municipality of Anchorage, Kenai Peninsula Borough,
14 and Fairbanks/North Slope Borough, Plaintiffs, v., J.S.
15 Hammond, Governor, Lee McNamary (ph.), Defendants, and North
16 Slope Borough, Defendant Intervenor, and it discusses borough
17 services at Prudhoe Bay. It discusses negative impact of
18 fiscal year 1982, 1983 budget reduction, and so on. And I
19 don't know if you have it. It's

20 CHAIRMAN BETTISWORTH: Yes, I've got a copy of that.

21 SPECIAL COUNSEL CONDON: You've got it now? Okay.

22 CHAIRMAN BETTISWORTH: I guess the difficulty with this
23 affidavit is that it doesn't discuss just those costs at
24 Prudhoe. It discusses what the operational budget for the
25 North Slope Borough is generally, and talks about what the --

1 what a per capita reduction count meant to them with respect
2 to revenues, and what they had to cut.

3 SPECIAL COUNSEL CONDON: I didn't mean to suggest it was
4 relevant to your question

5 CHAIRMAN BETTISWORTH: Yeah.

6 SPECIAL COUNSEL CONDON: but it's material in the
7 record, you know, on that general subject, and that's all I
8 could recall.

9 CHAIRMAN BETTISWORTH: Any comments on the part of the
10 Commission? I guess really what the problem is, is -- and I
11 think we might want to sleep on this one -- is there are --
12 on the cost side -- we don't have enough information on the
13 revenue side. There is some information, and it seems like
14 most of the impact is (indiscernible) concurrent. And I
15 think really we need to -- with respect to this factor, we
16 really need to look at it in terms of exactly that -- what
17 is the present impact, and I guess -- you know

18 COMMISSIONER HANSON: Any present or future.

19 CHAIRMAN BETTISWORTH: Yeah, and then the other side of
20 that is the future impact. Okay. I don't have any other
21 comments on this.

22 COMMISSIONER HANSON: All right. I guess the only -- it
23 seems that the meaning that we're trying to measure is a --
24 or rather for this question -- the tax base loss, the minor --
25 very minor tax base loss. First, it's the cost that's

1 possible -- cost of services, or how that factors out. It
2 seems like the other concerns are pretty much taken care of
3 except for the tax base question. Is that your

4 CHAIRMAN BETTISWORTH: Right.

5 COMMISSIONER HANSON: observation?

6 CHAIRMAN BETTISWORTH: Okay. Is there any other comment
7 with respect to factor seven?

8 COMMISSIONER ANDERSON: No.

9 CHAIRMAN BETTISWORTH: Factor number eight: "proposed
10 attachment strengthen or weaken long-term stability of all
11 borough boundaries and borough finances throughout Alaska."
12 Let's take five minutes to review the citations here.

13 (Off record)

14 CHAIRMAN BETTISWORTH: Okay. We will reconvene to con-
15 sider factor number eight: will the proposed attachment
16 strengthen or weaken the long-term stability of all borough
17 boundaries and borough finances throughout Alaska. Basically,
18 the issue here is one of fear that the Commission is -- and
19 the state are -- can and may, at its discretion, take up
20 other such issues. What is the comments on the part of the
21 Commissioners?

22 COMMISSIONER HANSON: Mr. Chairman, I have one comment
23 to start out our considerations, and that is that I'm
24 sympathetic to this concern in making sure we address it. I'm
25 not sure how widespread it is. We've received -- first of

1 all, we -- if I recall right, our Staff encouraged us to have
2 the hearing in Anchorage after -- I believe it was the
3 representative of the North Slope Borough suggested a hearing
4 in Anchorage, which we held partially so affected boroughs
5 were concerned about this precedent could talk to us directly.
6 And I don't believe -- for whatever reasons -- anybody was
7 able to talk to us on that, other than Mr. Richards, I believe,
8 talked to us about bonds regarding a precedent. We have re-
9 ceived four pieces of correspondence that I'm aware of, a
10 telegram from Mr. Stan Thompson on behalf of the Kenai Borough
11 administration, and it's been clarified in more recent letters --
12 being concerned about the benefits, and the -- excuse me,
13 just the precedent that -- to some extent -- mainly question-
14 ing whether benefits have been established for the detachment.
15 There was also a resolution given to us by Cordova city
16 council, which resolved -- they urged the Boundary Commission
17 not to approve the boundary change requested by the Commission-
18 er in the Department of Community, Regional Affairs. And what
19 their concern was that such action by the State to alter a
20 municipality's boundary without its assent could have
21 tremendous detrimental impact on the fiscal viability and
22 government integrity of all the municipalities in Alaska. I
23 take it addressing the same concern. It was a general
24 telegram. The other two -- we got one from the -- I believe
25 it was the mayor of Anchorage, and it mainly talked about

1 taking more -- this was to us last week when we thought we
2 were going to make a decision a week ago on taking adequate
3 time. In considering this -- and one from Kodiak, which also
4 dealt with -- a prime example (indiscernible) -- proposed
5 attachment is a significant and substantial issue that requires
6 thoughtful consideration, and goes on to say that this cannot
7 be insured by an expedited public hearing or review schedule,
8 so -- also addressing the item of time, not a precedent. So,
9 I think it's mainly the Kenai Borough, and the Cordova city
10 council that is directly addressed to this.

11 COMMISSIONER ANDERSON: I would feel if they were -- no
12 representatives from any other boroughs at our Anchorage
13 hearing indicate not to create a fear with -- otherwise, I
14 would feel that there a representation of some type from some
15 of these other boroughs. It's just my opinion, but

16 COMMISSIONER HANSON: The other concern is the question
17 of is this a unique situation, or is this something that you'd
18 see everywhere, and are we using criteria for our decision.
19 We've had both the North Slope Borough resolution 85-15, and
20 referring to it being a unique situation, and no precedent.
21 We've also had some other testimony talking about the unique
22 circumstances of this particular area, and detachment. I
23 guess those are the starting comments I have.

24 CHAIRMAN BETTISWORTH: I guess -- on the part of the
25 borough, what they really did is they cited all the opportunities

1 for potential changes in boundaries that might be instigated
2 by the Commission. The -- I guess we've -- at least in my
3 part, I've looked through that list. I'm familiar with
4 probably 50 percent of those places on those lists. In fact,
5 some of the actions that they describe here -- I've been
6 involved in -- not actions, but potential actions, and so
7 have you, Jo.

8 COMMISSIONER ANDERSON: Right.

9 CHAIRMAN BETTISWORTH: It just -- I guess in response --
10 really, the question is to us. We're the people who are
11 actually initiating the action

12 COMMISSIONER HANSON: Pardon. Taking the action.

13 CHAIRMAN BETTISWORTH: Yeah, right, taking the action.
14 And really, if you use the reasonable standards -- if we
15 have the proper amount of information, and that we can come to
16 a conclusion that detachment is proper, that would have to be
17 the case in every other situation, and -- you know, there has
18 to be some demonstrated purpose in proceeding with one of
19 those -- with something like this, and the ones that we see
20 here just don't really -- don't really demonstrate that kind
21 of unique condition, or the proper purposes other than just
22 a -- I don't know -- sort of indiscriminate re -- reforming
23 the boundaries within the borough -- within the State --
24 borough (indiscernible) the State. So, I guess the facts
25 on this -- well, there's an allegation made that the facts

1 are -- I don't think that it's demonstrated that we really have
2 a -- that the State has a philosophy that goes to

3 COMMISSIONER HANSON: Peckless

4 CHAIRMAN BETTISWORTH: reckless detachments, yeah.

5 COMMISSIONER HANSON: I'd like to make a comment on two
6 things here. One is that the way it's being approached -- I
7 mean, I looked at that list, too, and some of them talk about
8 taking action in this situation where this area is detached
9 from that area for such and such reasons, and then it will
10 turn around a little farther down the list and have an
11 annexation for exactly that same reason, which would be wrong,
12 too, in the way the presentation is formed, that taking these
13 actions would be irresponsible. And I get the sense that
14 there was a great effort to pull in all kinds of examples
15 that don't necessarily track the detachment fear. I mean,
16 they could refer as well to the incorporation -- the other
17 corporation and annexations, other activities that we as a
18 Commission participate in. In fact, some of the examples,
19 I think, referred to other kinds of activities, if my memory
20 is correct on this. And what that leaves me to believe is
21 I get the sense of a little bit of a kitchen sink approach
22 here, where the -- a lot of things thrown in as possibilities.
23 Now, regardless of the facts or the situation in the North
24 Slope Borough detachment territory, it seems to me a lot of
25 those allegations could be made for just about any action

1 this Commission dealt with where it was detrimental to one
2 party or another, and that if the legislature and the State
3 had not wanted us to make adjustments and boundaries, they
4 wouldn't have put in the detachment authority. Now, saying
5 all that, I still think it's extremely important that we do
6 it carefully, and I think particularly very carefully using
7 the criteria. There's one thing in the statute that we can't
8 ignore, and that's a believability. The question really is
9 referring to stability of borough boundaries and borough
10 finances. So, in fairness, the majority of the concern is
11 that does this attachment mean there are going to be irrespons-
12 ible changes as a result of it, but there's a minor, small
13 consideration of just appearance, and not wanting to -- but
14 I -- of a fear stirring that something will happen even though
15 there's no basis for it. I actually don't think that
16 appearance is there, if somebody -- because of the proceedings
17 we have been going through, and also I think the lack of
18 response showed that that -- there is not such a -- there is
19 not an appearance problem, or we would have had more response.

20 CHAIRMAN BETTISWORTH: I guess one of the facts is a
21 lack of any response on the part of organized boroughs.

22 COMMISSIONER ANDERSON: Right.

23 COMMISSIONER HANSON: Well, it's my understanding that

24 CHAIRMAN BETTISWORTH: Or other assemblies.

25 COMMISSIONER HANSON: Yeah, the assemblies or organized

1 boroughs and municipalities -- and we'll ask Staff to verify
2 this -- were sent a notice of an Anchorage hearing.

3 CHAIRMAN BETTISWORTH: Right. It

4 COMMISSIONER HANSON: I believe so. That's my recollec-
5 tion. So, I'd agree with -- but that's something we could
6 verify, too, for the record, whether those notices were,
7 indeed sent.

8 CHAIRMAN BETTISWORTH: Is there any other comment on
9 this issue?

10 COMMISSIONER HANSON: No.

11 CHAIRMAN BETTISWORTH: So we can move on?

12 COMMISSIONER HANSON: This -- I guess with the under-
13 standing that we may wish to add clarification tomorrow
14 (indiscernible) on those notices.

15 CHAIRMAN BETTISWORTH: Okay. With that, let's move on
16 to factor number nine. Let me ask -- there was some discussion
17 that we might break for a dinner. What's the feeling of the
18 Commission?

19 COMMISSIONER ANDERSON: That would be a good idea.

20 CHAIRMAN BETTISWORTH: Okay. With that, we'll take a
21 45-minute break. We'll be back here at quarter to 8:00.

22 (Off record)

23 CHAIRMAN BETTISWORTH: We will reconvene of the Boundary
24 Commission on the issue of a detachment from the North Slope
25 Borough. We ended with factor number eight in the decisional

1 makage (ph.). The next factor before us is factor number
2 one. It reads, will the proposed attachment protect subsistence
3 resources and balanced development conservation concerns. I
4 guess I'll start off with my recollect with respect to this
5 issue. First, I think that the place where the most emphasis
6 on this issue came about was in the public hearings that we
7 held, particularly in Noatak and Kotzebue, where for sure the
8 issue of subsistence, utilization of land was utmost in those
9 folks' minds, and I guess the point that they made over and
10 over again that if the areas within a new Northwest Arctic
11 Borough, then their concerns can be protected. And I guess
12 that sort of falls under the issues of factor number four
13 which says, will the proposed attachment maximize the
14 promotion for self-government. And I guess in addition to
15 that, the NANA (indiscernible) agreement is fairly specific
16 with respect to its restrictions -- or its control over the
17 development of the mine itself, and the ability of those
18 villages to basically obstruct or stop activities at the mine
19 should the subsistence -- or actually should any of those
20 two villages become concerned about the developments at the
21 mine itself, whether subsistence or other environmental, or
22 employment, or whatever kinds of factors. Are there any
23 other comments on the part of the Commission?

24 COMMISSIONER ANDERSON: Well, I think that was well said.

25 COMMISSIONER HANSON: Mr. Chairman?

1 CHAIRMAN BETTISWORTH: Mr. Hanson.

2 COMMISSIONER HANSON: I'd like to make a reference,
3 although I agree with your comments, also to the reply --
4 Respondent's North Slope Borough brief in opposition, page
5 45. I spent about a couple of paragraphs actually using
6 some of this same language about the best interests of the
7 territory being -- or proposed attachment is to be found an
8 imbalance between exploitation and conservation of resources,
9 and state that there's a conservation area in effect under
10 the North Slope rules now, and bring it up for concern about
11 it's unknown what that will be if it's in NANA's, or if it's
12 in another borough, that's a normal protection it will have.
13 They also make mention of -- here and elsewhere has been made
14 mention of the comments -- I guess it was elsewhere that the
15 comments were made regarding Mr. Schaeffer's (ph.) comments,
16 and during the negotiations on trying to have a letting up on
17 the planning and zoning requirements for two or three years.
18 It was used in one negotiation, and is referred to in the
19 hearings and several documents. So, I think in that light,
20 I'd like to say on the waiving of requirements that Mr.
21 Schaeffer mentioned, and the public hearing on Kotzebue -- I
22 think that one was put to rest where the people from the NANA
23 borough, and the native association up there made it quite
24 clear that regulations would be as stringent as the North
25 Slope Borough's, or more stringent, and that Mr. Schaeffer

1 himself testified directly on his previous statements, and
2 his position which was for stringent regulations and control.
3 The concern about on-going protection -- as you mentioned,
4 one thing -- we'll be considering that probably in our
5 deliberations on the borough formation itself, and it seems
6 at that time that's one of the considerations we'd be looking
7 closely at, as well as the point you made about the residents
8 wanting protection, and the Kamanco agreement already contained
9 certain protections, especially on the caribou, and that --
10 that I think both the hearing showed a great deal of concern --
11 so it seemed to us both -- and the Boundary Commission members,
12 that we would be going an extra length to make sure in the
13 borough proceedings that we're looking for those assurances,
14 and plans to take care of the transition.

15 CHAIRMAN BETTISWORTH: Any other comments on factor
16 number nine?

17 COMMISSIONER ANDERSON: No.

18 CHAIRMAN BETTISWORTH: Okay. With that, then we will
19 move to factor number ten.

20 COMMISSIONER HANSON: Mr. Chairman, I'd like to make one
21 more comment. I'm sorry.

22 CHAIRMAN BETTISWORTH: Okay.

23 COMMISSIONER HANSON: I also believe that in the regional
24 strategies that the NANA people have referred to that there
25 is principles established about balancing development and

1 conservation, and the protection of subsistence resources.

2 Thank you.

3 CHAIRMAN BETTISWORTH: Factor number ten: will the
4 proposed attachment promote harmonious relationships between
5 neighbors -- relations between neighbors. I guess the -- with
6 respect to this issue, the comments that have been made are
7 that -- on the part of the Petitioner, that, in fact, the
8 detachment does promote harmonious relationships by setting
9 aside sort of an aggravation that has been in affect for at
10 least the 13 years that the North Slope Borough has been in
11 existence were -- or be just -- since the boundaries for the
12 NANA reason are ex propriis and have been in existence, and
13 were different from the borough's boundaries, and that is their
14 position. I guess from my reading on the North Slope side,
15 their feeling is that no matter what the resolution is that
16 there's going to be hard feelings on either side for a
17 continuation of time, and that really this action has no
18 affect on the harmonious relationships. Is there any other
19 comments of the other Commissioners?

20 COMMISSIONER ANDERSON: Well, the only thing I wish to
21 add would be in other -- no -- other -- not exactly similar
22 situations, because this is certainly a very different
23 situation than we have encountered before, but where there
24 have been boundaries changes sometimes there have been very,
25 very strong feelings on both sides of the boundary change.

1 But, once it has been made, people generally learn to live with
2 it and become more harmonious.

3 CHAIRMAN BETTISWORTH: Mr. Hanson?

4 COMMISSIONER HANSON: Well, I just -- based upon the
5 hearings we've just gone through, and the testimony we've got,
6 I don't think, although I agree with Ms. Anderson's -- I
7 think it's a toss up. I don't think we can actually go ahead
8 and say that it's going to promote more harmonious relations,
9 maybe -- and perhaps in the long term it's very illogical
10 that it would if the detachment -- if we were to decide in
11 favor of the detachment if it's improved the boundary situation.
12 But, it seems to me either way there are going to be some
13 hard feelings for a while. We've heard an awful lot of
14 testimony to that kind of affect. So, I guess I'd say that's
15 sort of a mutual consideration.

16 CHAIRMAN BETTISWORTH: Any other comment on the part of
17 the Commissioners?

18 COMMISSIONER HANSON: No.

19 CHAIRMAN BETTISWORTH: Okay. With that, then, we'll move
20 on to factor number eleven: what does the record of the public
21 hearings and other information submitted in this proceeding
22 show regarding pertinent public opinion on the proposed
23 detachment. I guess what I'd like to do -- okay. Well, why
24 don't we take a couple minutes to review the briefs.

25 (Off record)

1 COMMISSIONER ANDERSON: Well, I'll be glad to start it
2 off. Our records of our public hearings, and the other
3 information -- we were in the NANA area. We received strong
4 support for the detachment, and were shown a great desire
5 for the people at NANA area to form the borough and to be
6 able to finance it. And in the North Slope areas, we -- it's
7 just the other side. Each side, I'm sure, has a viable reason
8 for their testimony. I can't say much of anything. I forgot
9 what happened.

10 CHAIRMAN BETTISWORTH: Thank you. I guess as a -- sort
11 of the way it went was that in Kotzebue and Noatak we found
12 almost unanimous consent that the detachment and subsequent
13 formation of a borough were, in fact, desired, that in Point
14 Hope and in Barrow we found the opposite, that, in fact, it
15 was detachment and subsequent formation of a borough in the
16 NANA region was not to their interest, and they were not in
17 favor of it, and I guess further, the issue of the vote that
18 was taken -- the advisor vote that was taken in October was an
19 indication on the part of the North Slope Borough that the
20 voters, at least, did not think that this was in their best
21 interests. Again, that vote was on a much smaller and a
22 different kind of an application than the one we're
23 (indiscernible) facing them right now. I guess from my stand-
24 point the real -- the crux of the matter is, is where does
25 the responsibility of the Commission in viewing these public

1 hearing, and basically public opinion. And, I think that
2 the constitution contemplates that there would be differences,
3 and that really it's our duty to use our judgment to look at
4 the issues and resolve them

5 COMMISSIONER HANSON: Mr. Chairman?

6 CHAIRMAN BETTISWORTH: Mr. Hanson?

7 COMMISSIONER HANSON: I'd like to make a -- I agree with
8 what's been said. I think we need to emphasize, though, on
9 how large the response of voters and petitioners are -- or
10 was in the North Slope Borough, that the original voters
11 you mentioned was for a smaller area, and that in one village,
12 Point Hope, where the vote was tied at close to tied, and
13 then -- I think it was Point Lay where detachment actually
14 won on the ballot at that time. The part of the original
15 agreement was promising residents of that area jobs -- or a
16 preference in the -- in the mine site. It was part of the
17 understanding that was going with it. But, I think we have
18 to consider that when we're looking at that original vote.
19 Obviously, a few may have voted for it that were nos, but
20 they might have taken that into consideration. Secondly,
21 we received a petition with 1,100 names on it, and -- at the
22 hearing in Barrow. We've probably heard from -- at least
23 safely the large majority of every government and civic
24 leader of local governments on the North Slope I imagine
25 testifying against it, except I believe there were two that

1 didn't. I believe Eddie Hobson (ph.) of the North Slope --
2 or the Arctic Slope Regional Corporation did not, and maybe
3 what this shows is the strength of feeling this conflict
4 thing. We've got (indiscernible) to reflect it. So, I --
5 but I think those are something that we need to keep in mind
6 as we consider the best interests.

7 CHAIRMAN BETTISWORTH: I think we also need to point out
8 that it's the borough's point of view that, in fact, the mandate
9 against the detachment as demonstrated by the vote is -- needs
10 to be one of those things that's foremost in our minds as we
11 consider this issue. Any other comments on number eleven?

12 COMMISSIONER HANSON: I guess the only other thing is
13 that obviously we've got a self-determination issue that's
14 shown by the public comment on both sides. On one side the
15 Kivalina and Noatak people wanting to control their own
16 water shed, and the NANA people wanting to control their
17 entire region and development area, and the North Slope
18 Borough showing strong feelings through their votes and
19 petitions that they want to retain their existing boundaries.

20 CHAIRMAN BETTISWORTH: Any other comments? Okay. Then
21 we'll move on to number twelve: will the proposed detachment
22 aid in perfecting the boundaries of the North Slope Borough
23 in the proposed Northwest Alaska Borough according to exist-
24 ing historical -- they reamended this to say existing
25 economic, historical and culture use areas and geography areas.

1 Do we want to take a couple of minutes to go through these
2 notes and briefs?

3 (Off record)

4 CHAIRMAN BETTISWORTH: Okay. Factor number twelve is
5 before us. The factor reads: will the proposed detachment
6 aid in perfecting the boundaries of the North Slope Borough
7 and the proposed Northwest -- that should actually be North-
8 west Arctic Borough.

9 SPECIAL COUNSEL CONDON: One thing you ought to do is
10 look through pages 10 through 15 in the North Slope Borough
11 and change that entry on your

12 CHAIRMAN BETTISWORTH: From 45?

13 SPECIAL COUNSEL CONDON: From 45.

14 CHAIRMAN BETTISWORTH: 10 through 14?

15 SPECIAL COUNSEL CONDON: 10 through 14.

16 CHAIRMAN BETTISWORTH: I was going to say I didn't find
17 anything on

18 SPECIAL COUNSEL CONDON: I'll also call your attention
19 to page 10 of the North Slope Borough.

20 CHAIRMAN BETTISWORTH: Okay. We'll take a second to take
21 a look at those.

22 (Off record)

23 CHAIRMAN BETTISWORTH: Prepared to (indiscernible)? Okay.
24 With that, then, we'll go back and re-read the factor: will
25 the proposed detachment aid in perfecting the boundaries of

1 the North Slope Borough and the proposed Northwest Arctic
2 Borough according to existing economic, historical, cultural
3 use areas and geography. I guess I can start this off. I'd
4 like to comment that I think that the record -- basically it
5 shows up first in the petition. There's -- response to
6 opposition brief goes through

7 COMMISSIONER HANSON: You mean the opposition brief?

8 CHAIRMAN BETTISWORTH: I was going to say. Maybe it's
9 the brief itself that goes through a lengthy description of
10 the actions that took place during the formation of the --
11 that's not where it's at.

12 COMMISSIONER HANSON: On the standard brief.

13 CHAIRMAN BETTISWORTH: What the -- I think that -- actually,
14 it's in the record of the NANA borough. NANA's supporting
15 brief is a record of the actions taken by the Local Boundary
16 Commission at the time that they formed the borough -- North
17 Slope Borough, and I think that it's -- I guess what I see
18 there is that there's a showing that the Commission had the
19 understanding at the time without the formation of the Arctic
20 Slope Regional Corporation and NANA Regional Corporation that
21 the boundaries were to be coterminous. It was their under-
22 standing that that's the way it was going to turn out. That,
23 in fact, what happened is that -- that is the way it turned
24 out. There was -- there was still some questions about how
25 it was going to really be resolved in the end. So, that there

1 ended up being a difference between the two. The -- the other
2 thing is is that the original boundary was disputed then
3 before NANA. It was -- there was a strong challenge. It was
4 a singular challenge, and I don't think that it doesn't seem
5 like the record adequately reflects that challenge. I guess
6 in addition, with respect to the issue of geography, it's
7 clear that this -- that boundary line on the 68th parallel
8 really doesn't describe any geographic feature -- geographical
9 feature, and that something closer to what the boundary
10 that's proposed, which is again coterminous with the regional
11 corporation boundaries, is more in keeping with the geographical
12 conditions. I guess that's all I have on this.

13 COMMISSIONER HANSON: Mr. Chairman, I -- I'm sorry.

14 COMMISSIONER ANDERSON: No. I (indiscernible) some
15 comments.

16 COMMISSIONER HANSON: We've got an interesting question
17 here, and a lot of things came up in the briefs, and it
18 seemed like maybe the history of this issue perhaps was
19 talked about and argued back and forth to a point out of
20 proportion to its direct relevance as to our proceeding, though
21 it is a consideration. First on the history, what I see is
22 that one, the two regional corporations were having hard
23 negotiations on whether the division line would be between
24 the two regions. Two, the North Slope Borough took -- requested
25 the 68th parallel, which is the starting point for negotiations

1 by the Arctic Slope Region. Mr. Newman objected. The
2 Boundary Commission took that into consideration, and then
3 was assured that where the two regional boundaries would end
4 up was synonymous with where the North Slope Borough boundaries
5 would be, and that could have been said in good faith by
6 somebody from the North Slope thinking they would get the
7 boundary they asked for originally, which was the 68th
8 parallel, so I think we've got a situation, is what I'm
9 saying. I don't see -- we've got quite a testimony offered
10 by Mr. Schaeffer explaining why NANA -- he in a letter from
11 NANA Corporation later indicated acceptance of those boundaries
12 which makes it pretty clear that it was to help negotiations
13 go on regional boundaries. But, I think the record is clear --
14 and I'm not sure how important it is -- that the Boundary
15 Commission felt the boundaries they were approving were likely
16 at least going to be exactly the same boundaries as between
17 the two regional corporation, and that turned out not to be
18 the case. At the same time, the Boundary Commission went
19 through a full legal process to do things properly. I think
20 our consideration of that -- and nobody's debating that, that
21 it was a legal process. It's just that while this was obvious-
22 ly a concern at that time, that's something that we're look-
23 ing at again. Thirteen years later, it's very -- detachment
24 is such that it's very natural to re-look at any boundaries
25 even if there wasn't a conflict, or a controversy about the

1 boundary at that time. There's a reason now.

2 CHAIRMAN BETTISWORTH: Yeah. I guess one of the things
3 that shows in this is that really the original Boundary
4 Commission, the Boundary Commission in '72, did have as one
5 of its criterias that the boundary be deformed to the regional
6 corporation boundaries. That it didn't turn out that way
7 is -- was really sort of a function of timing, and the
8 situation.

9 COMMISSIONER ANDERSON: Yeah, right.

10 COMMISSIONER HANSON: The other think I'd like to say,
11 though, is that the new boundary -- or the proposed detachment
12 boundary obviously would correct that. It would be synonymous
13 with the regional corporation, but as far as looking at these
14 other factors, geographically we had a lot of testimony in
15 Noatak and Kotzebue and from Kivalina people that they've --
16 the more appropriate boundary is the crest of the Brooks
17 Range, which is further north than the proposed boundary.
18 Now, we don't have the -- we can't do anything about that at
19 this time, but I think it should be noted. So the hearing
20 on one end said that's not far enough. The other thing is
21 that it's definitely clear in the letter about the agreement
22 on the boundaries for the two regional corporation that they
23 encompass cohesive historical and cultural areas, the NANA
24 Corporation boundary, and the North Slope to the extent they
25 can. The last comment I'd like to make is one from the

1 findings on the North Slope Borough -- the statement of
2 findings to the Local Boundary Commission under geography,
3 page three states that the Commission plans the proposed
4 borough meets the standard in every respect, and that the
5 areas generally bounded by the crest of the Brooks Range and
6 the areas (indiscernible). So the fact that this detachment
7 would move closer to the crest of the Brooks Range is not
8 inconsistent with their finding. The other thing I'd like
9 to say is economically you've got a situation where obviously
10 the land is owned by the NANA Corporation, and you have a
11 regional corporation that's looked on as an economic unit,
12 and that would be -- well, in agreement with perfecting,
13 or making the boundaries a little more logical.

14 CHAIRMAN BETTISWORTH: Any other comments?

15 COMMISSIONER ANDERSON: No, I have none.

16 CHAIRMAN BETTISWORTH: Okay. Then with that, we will
17 move on to factor number thirteen. The factor is: will the
18 proposed detachment facilitate control over industrial
19 development and management of rapid social and economic
20 change by those communities and people most affected by them.
21 This will take a minute to review our notes, and comments on
22 the briefs.

23 (Off record)

24 CHAIRMAN BETTISWORTH: Okay. We'll pick up with factor
25 number thirteen: will the proposed detachment facilitate

1 control over the industrial development and management of
2 rapid social and economic change by those communities and
3 people most affected by them. Mr. Hanson?

4 COMMISSIONER HANSON: On this question, we've kind of
5 really -- two major considerations, and one is on the side of
6 going for the detachment. Obviously, the people most affected,
7 meaning those in Kivalina, Noatak, and the Kotzebue region,
8 by having the Red Dog area and that mineral area included
9 in their -- in a borough government boundary will have much
10 more direct control over what happens there than they do now,
11 although they have some control through ownership in the NANA
12 Corporation. As far as management of rapid social and economic
13 change by those communities and people most affected by them,
14 there are several things in the record that point out that
15 obviously the impacts are going to hit the NANA region, and
16 hit Kotzebue, and detachment definitely will -- would -- and
17 formation of a borough -- would help Kotzebue and the NANA
18 Region be able to manage the social and economic changes they're
19 going to be hit with due to development of the mine, and we've
20 got testimony by John Schaeffer, by NANA, by several people
21 at the hearing talking about their -- the need to manage this,
22 the desire to manage it, and a lot of concern that the
23 Noatak -- here in the village. So, the residents most
24 affected wanted to control their own future. The other side
25 of this issue to me is -- it was stated quite well by Mr.

1 Ronald Brower in his testimony. The advantages of using the
2 existing infrastructure, and the transition -- I believe he
3 also mentioned transition period, but others have mentioned
4 transition period concerns. So, there is that consideration,
5 but that consideration only speaks to efficiency in the very
6 short term. It seems to me based upon the testimony we heard,
7 detachment will facilitate control over the industrial
8 development and management of the rapid social and economic
9 change by those most affected by it. My one qualifer will be
10 the need to make sure that this also happens during the
11 transition period, and also the interest of the Point Hope
12 people, and the caribou, and their subsistence concerns.

13 CHAIRMAN BETTISWORTH: I guess what I'd like to add to
14 that is with the Red Dog Mine included as part of the tax
15 base for the proposed borough that would have control of
16 this development, they didn't have the financial resources
17 to effectuate the control, and without a tax base, without
18 the money to do it, that they wouldn't be able to really do
19 that without another source of funds. Any other comments
20 before the Commission?

21 COMMISSIONER ANDERSON: Yeah, I think you just said all
22 the things I had to say.

23 COMMISSIONER HANSON: I will just mention one more thing
24 on the record as far as the fact that talking about impact on
25 the area in past growth I found it interesting -- we have

1 letters from the GCO Minerals Company and Noranda, both
2 talking about the significant affect the developments are
3 going to have on the communities in the area. Before we get
4 off this, it's also worthwhile to point out that the people
5 of Point Hope felt that there was going to be some impact on
6 them from the development of this mine, and -- or any of the
7 mineral resources within the area, and there was some concern
8 on their part that they were losing what control they had over
9 that development. There was some concern over the -- for sure
10 the subsistence use of the caribou herds that traverse the area,
11 and additionally there were -- whatever -- air, pollution that
12 may occur, deviation to air quality, and also there was some
13 concern over pollution or -- or contamination of waterways and
14 rivers. I guess on the part of the waterways and rivers issue,
15 really the area that the Red Dog Mine is -- really does drain
16 into the Kotzebue basin area, and not so much into the -- and
17 not at all into the Point Hope area, and -- so that not --
18 isn't really much a concern on their part.

19 COMMISSIONER ANDERSON: I think they were quite concerned,
20 however, about the caribou herd.

21 CHAIRMAN BETTISWORTH: Right.

22 COMMISSIONER HANSON: The one point on the caribou
23 herd -- my understanding is that that's one of the most
24 important -- or one of the important parts of the agreement
25 that NANA has involving Kivalina and Noatak advisory group

1 with Kamanco on use of the road facilities, but I think it
2 points out something that just -- obviously, there is a need
3 for some communication and coordination between the NANA
4 people and the developers of that mine and the Point Hope
5 people regarding protection of caribou and general subsistence
6 use in the area. I guess the other concern that it could hit
7 the other side of the crest of the Brooks Range would be any
8 types of air pollution, but it seems like that's a legitimate
9 concern.

10 COMMISSIONER ANDERSON: Well, I -- as I remember from
11 the hearings, I got -- from both the NANA region and from
12 the North Slope that these were going to bother the others
13 on subsistence use in both directions.

14 COMMISSIONER HANSON: Yeah, (indiscernible) from my
15 comment, I agree with that, that there was more reference to
16 communication and involvement of the respected parties to
17 assure that they weren't affected by industrial and

18 COMMISSIONER ANDERSON: (Indiscernible.)

19 COMMISSIONER HANSON: But it was clear there's a mis-
20 understanding on people thinking there was going to be a
21 fence or something keeping them from going back and forth
22 across the borough line, which was a misunderstanding.

23 CHAIRMAN BETTISWORTH: Are there other comments on
24 factor thirteen? Then we can move on to factor fifteen.

25 Factor fifteen reads: should uncontrolled development occur

1 before the proposed Northwest Borough -- I think it should
2 be Northwest Arctic -- I guess it's Northwest Arctic -- North-
3 west Arctic Borough can implement its regulatory and planning
4 powers. Basically, this is a sequencing issue. It was raised
5 in a brief by the Respondent, North Slope Borough in opposition,
6 and we can take a couple minutes to review that.

7 (Off record)

8 COMMISSIONER ANDERSON: Yes, I'd like to lead off on this.
9 As far as uncontrolled development, the borough would have to
10 be in place before the detachment becomes effective, and in
11 that way they should have everything together as far as having
12 the people that are needed, and getting everything set up, it
13 probably -- if this comes to pass, they probably will have
14 that together by the time it's approved, and the detached --
15 I mean if it is approved that is, and the detachment would not
16 be effective until after this happened, which is certainly a
17 control itself.

18 CHAIRMAN BETTISWORTH: Mr. Hanson?

19 COMMISSIONER HANSON: Yeah. I agree with the concept
20 of Mrs. Anderson's comments, but I'd just like to point out
21 technically from reading the regulations under 1980 C 10.240B
22 it states that, if in fulfilling the requirement of aid of
23 the section the Petitioners are proposing a corporation of a
24 new municipality, Commission will in its discretion condition
25 approval of the detachment upon voter approval of an

1 incorporation proposal. Now, I'm just curious. Was -- is our
2 condition in our -- in the original position just refer to
3 brutal approval or does it refer to actual formation of the
4 borough? Because -- not that this couldn't be corrected in
5 either case through assurances, we could attempt to provide --
6 and first we could attempt to provide in the borough formation
7 of process review of the borough formation of process itself,
8 and I'd just like to correct that technicality.

9 CHAIRMAN BETTISWORTH: Well

10 COMMISSIONER HANSON: I might -- my point is that if
11 it's effective

12 CHAIRMAN BETTISWORTH: Here's what the petition says on
13 the front page: it says condition that the detachment take
14 effect only upon appropriation of a borough within the NANA
15 region, so

16 (Indiscernible - simultaneous speech)

17 COMMISSIONER ANDERSON: And that's exactly what I was --
18 sorry about the disorder, guys.

19 CHAIRMAN BETTISWORTH: The concern I have is that in-
20 corporating a borough and getting in place a zoning ordinance
21 and mapping the zoning is a couple different things. There's
22 a period in there when -- in which there's a -- there may not
23 be the actual on-the-ground zones offered, and that I see as
24 being a legitimate concern that there is a slip in there, that
25 in some way -- particularly since this process of developing

1 the mine is on-going, that there needs to be -- if it were to
2 take place, there needs to be some sort of transition mechanism
3 established to take care of that.

4 COMMISSIONER HANSON: Would we as a Commission have the
5 ability to -- I'm not sure the right word -- request assured
6 that that is part of the submission for the borough formation
7 as an additional consideration, or I guess we could suggest it.

8 CHAIRMAN BETTISWORTH: Yeah, I think it's something that
9 really needs to be in -- dealt with at the time that the
10 borough petitioned, or was submitted to us. Somehow that
11 portion needs to be addressed.

12 COMMISSIONER ANDERSON: It should be a part of the
13 petition I would think.

14 CHAIRMAN BETTISWORTH: If there's a -- you know, there's
15 a hole

16 COMMISSIONER HANSON: Or additions or explanations that
17 services will be provided in the new borough. It seems that
18 in dealing with that consideration a borough formation -- it
19 would be necessary to have this transition addressed.

20 CHAIRMAN BETTISWORTH: The -- if we go to the opposition
21 brief, 45 and 46, their concern is in the interim uncontrolled
22 development may occur, and I guess that -- we've already said
23 this once before, but uncontrolled development of that mine
24 cannot take place, because there's at least several other --
25 many agencies involved, and that the planning and zoning

1 powers of a borough are only one of the twelve that affect
2 this action.

3 COMMISSIONER HANSON: The one thing I'd add is we've
4 certainly been receiving indications, especially one on --
5 since we opened our public hearings, everybody everywhere wants
6 to control and make sure this development in this area happens
7 safely no matter where they are located. So, there's definitely
8 an intent on the residents of both the NANA and North Slope
9 areas of Alaska.

10 CHAIRMAN BETTISWORTH: Any other comments about factor
11 fifteen?

12 COMMISSIONER ANDERSON: I think it's well covered.

13 CHAIRMAN BETTISWORTH: Okay. With that, we've covered
14 the fourteen factors that we originally took on. Are there
15 any other comments with respect to those factors

16 (Off record - tape change)

17 CHAIRMAN BETTISWORTH: what goes beyond this ADA
18 of financing of the (indiscernible) mountain transportation

19 MR. HARRISON: Mr. Chairman, I called Terry
20 Elder, who is the deputy commissioner of the Department of
21 Commerce and Economic Development, and Terry has been
22 intimately involved with the negotiations between the State,
23 ADA, and on the one hand Kamanco and NANA on the other, and
24 I read him the material that was addressed to this subject in
25 the North Slope Borough opposition brief on page 26 and 27,

35

1 and asked for his comments on it, particularly -- you know,
2 just talked about the opportunity for there to be payments in
3 lieu of taxation, and his reply was that to his knowledge such
4 payments have never been discussed. There was no contemplation
5 of any kind of payments in lieu of taxation. The only payments
6 that have ever been the subject of discussion on the part of
7 Kamanco and NANA have to do with a -- basically, a user fee
8 that results in minimum return on the State's investment of
9 six-and-a-half percent. There's also an excess tonnage fee,
10 and then there would be additional payments by Kamanco in the
11 event that there was some premium price of zinc. And the
12 only other payments that were discussed, according to Terry,
13 are payments that the State would make to NANA for the purchase
14 of right of way and gravel. I asked him if it would be -- if
15 technically it was too late for there to be any such provision
16 in the contract had it been signed, what was the status of
17 that, and he said, no, that technically not, that the only
18 thing there was at this point was an MOU, a contract that's
19 being drafted and the meetings were planned next week to deal
20 with the contract, but he emphasized that at no time have any
21 such payments been in discussion.

22 CHAIRMAN BETTISWORTH: I guess the issue would be who
23 owns the system.

24 MR. HARRISON: Those will be State-owned
25 properties.

1 CHAIRMAN BETTISWORTH: Okay. They are State-owned
2 properties?

3 MR. HARRISON: Yeah.

4 CHAIRMAN BETTISWORTH: And then basically what we're
5 doing is we're using the user fees as almost -- what we're
6 doing is issuing the revenue bond, and we're using user fees
7 for to pay off the revenue bond. I mean, that's sort of the
8 concept here. So that as State-owned property it really is
9 not taxable.

10 MR. HARRISON: It's not -- it's -- that's
11 right.

12 CHAIRMAN BETTISWORTH: Any questions of the Commissioners?

13 COMMISSIONER ANDERSON: I've answered that for us.

14 CHAIRMAN BETTISWORTH: Okay. Go ahead, Gordon, if you
15 have another comment.

16 MR. HARRISON: No, no, I was just going to talk --
17 I -- the concept of payment in lieu of taxes is based on the
18 assumption that it is a government-owned property. Often
19 governments make such payments to -- the federal government
20 essentially does it -- you know, if there's military reser-
21 vations and so on, so you understand that, but

22 CHAIRMAN BETTISWORTH: Is the State of Alaska involved in
23 that at all?

24 MR. HARRISON: I don't know if the State ever
25 makes payments in lieu of taxes or not.

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1 CHAIRMAN BETTISWORTH: Are there any other comments on
2 the part of the Commissioners on this issue?

3 COMMISSIONER HANSON: Well, Mr. Chairman, I'm just
4 wondering do we -- I mean, I can look back in the record, but
5 just -- Gordon, do you happen to know off the top of your head
6 how much -- what the amount of fees are yearly, or what the
7 agreement

8 MR. HARRISON: As I understand it, it's the
9 user fee, which would be a toll, or a tonnage fee or something
10 is a calculation that's derived from the anticipated repay-
11 ment to the State of six-and-a-half percent of the State's
12 investment in this, and I don't know what that translates
13 into dollars, so

14 COMMISSIONER HANSON: But the State's investment is

15 MR. HARRISON: \$175 million, I

16 COMMISSIONER HANSON: \$175 million.

17 MR. HARRISON: or let me say that I -- I
18 shouldn't speak about that, because I'm not sure -- I'm not
19 familiar with the financing of that whole project, and what
20 the State's -- the State's investment may be substantially
21 less. I really don't know.

22 CHAIRMAN BETTISWORTH: This comes from the North Slope
23 Borough's brief of opposition, page 25 and 26. (Indiscernible)
24 industrial development can issue up to \$175 million in State
25 bonds and notes to finance road and port improvements to the

1 Red Dog Mine project. It goes on to state that they are
2 required to provide a finance plan, et cetera. Is there any
3 comments on the part of the Commissioners?

4 COMMISSIONER HANSON: I have no comments at this time,
5 but I'm going to try to read through this.

6 CHAIRMAN BETTISWORTH: If you use the whole \$175 million
7 and you're paying back at the rate of six-and-a-half percent,
8 it's about -- this is not compounded, this is just the six-
9 and-a-half percent, the anthill fee then for using the road is
10 on the order of \$11 million. To generate the same taxes as
11 would come from the development at Red Dog -- let's say at
12 \$250 million -- well, not \$250 million -- about \$4 million
13 worth of taxes, it would probably raise this -- well, I'll
14 work it out, but -- for some reason that doesn't work.

15 COMMISSIONER HANSON: Mr. Chairman, one question I have
16 is an agreement like this is always quite complex, and there's
17 a lot of things in it beyond first glance. I guess I'm
18 curious about whether it had anything to do with economic
19 viability of the project, or anything that had to do with
20 the fact that this wasn't considered.

21 CHAIRMAN BETTISWORTH: The one thing we do know is that
22 if you were to tack on a tax, or payment in lieu of taxes to
23 the road project, that would be additional to any taxes that
24 the mine project would be paying to the North Slope Borough
25 for the assessments at the mine itself, so that the cost to

1 the developer of the mine project goes up under that kind of
2 a theory. I guess the alternative to this is that should the
3 detachment not take place is there a payment in lieu to NANA
4 for the North Slope Borough for -- in taxes being suffered
5 by the people in the proposed NANA Borough.

6 COMMISSIONER HANSON: Because the impacts are outside
7 them, or something.

8 CHAIRMAN BETTISWORTH: Which factor did that come up
9 under?

10 COMMISSIONER ANDERSON: This was under seven.

11 CHAIRMAN BETTISWORTH: Seven. I guess the comments that
12 we've just issued I hope show up in the record on the -- on
13 factor number seven. It doesn't seem like there's any clear
14 resolution of where those things fall out, but at least there --
15 there's been some consideration here.

16 COMMISSIONER ANDERSON: Right.

17 CHAIRMAN BETTISWORTH: The other issue that was before
18 us that was left outstanding was the issue of public notices
19 of the municipalities.

20 SPECIAL COUNSEL CONDON: Mr. Chairman, I (indiscernible)
21 the discussion of scheduling of the public hearings that the
22 Commission requested that all boroughs and unified -- or all
23 the municipalities in the State to be invited to comment.
24 Accordingly, a letter went out on December 19th, and I'll
25 just read from this relevant part: the Local Boundary

1 Commission has invited interested boroughs, unified home rule
2 municipalities to comment during the course of a scheduled
3 hearing on the proposed detachment to be held in Anchorage on
4 January 8th, 1986. If you are unable to attend the meeting,
5 we suggest that any written comments you wish to submit on
6 this matter might be forwarded to the Local Boundary Commission
7 through this office, that's the office in Anchorage, on or
8 before January 6th, 1986.

9 CHAIRMAN BETTISWORTH: Any comment on the part of the
10 Commission?

11 COMMISSIONER ANDERSON: We received four letters, right?

12 CHAIRMAN BETTISWORTH: That -- those four responses?

13 COMMISSIONER ANDERSON: Yes.

14 CHAIRMAN BETTISWORTH: And act -- let me see. Actually
15 only one of those was from the unified municipality. The
16 rest of them were from cities, right?

17 COMMISSIONER HANSON: One was from Cordova, one was
18 from the Kodiak Island Borough, one was from the Kenai
19 Peninsula Borough, and the other one was from the Municipality
20 of Anchorage.

21 CHAIRMAN BETTISWORTH: All right. Are there any other
22 comments on the part of the Commissioners at this time? I
23 guess what's before us now is that we have time to recess.
24 The Staff is going to take these comments we've made on each
25 one of these factors and prepare a text which we will then

1 review tomorrow morning. Basically, at that time we will
2 review these proposed findings of fact, and then proceed to a
3 best interest determination, and from there go to another
4 recess so that the Staff could draft these determinations, and
5 if necessary then have to pick up the issue of guaranteed
6 services as its liabilities will be divided, and then vote on
7 a motion to approve the petition. I guess in other business
8 that's still before us is the issue of those decisional
9 statements that need to be approved and signed off on. I
10 guess my recommendation is -- I guess they've been distributed
11 to each of us now, that we look those over this evening and
12 be prepared to discuss them first thing tomorrow morning. Mr.
13 Hanson?

14 COMMISSIONER HANSON: Yes, Mr. Chairman, I'm wondering if
15 we want to ask Mr. Condon or Mr. Harrison if they have any
16 comments on the proceedings, or the procedures for tomorrow.

17 MR. HARRISON: I have none.

18 SPECIAL COUNSEL CONDON: I have no comments other than I hope that
19 you would expect to see us with respect to the matter we've
20 been discussing today around 9:30.

21 CHAIRMAN BETTISWORTH: Let me ask -- we -- what is the
22 schedule for getting in here tomorrow morning?

23 MR. GENE KANE: I talked to the maintenance staff.
24 They said that they would have the doors open at about 8:00
25 o'clock.

1 CHAIRMAN BETTISWORTH: Okay. What's the pleasure of
2 the Commission? Do we need to -- well, how much time do we
3 need to go through these decisional statements? If we get
4 together at 8:30, we should

5 COMMISSIONER HANSON: Yeah.

6 CHAIRMAN BETTISWORTH: have plenty of time to be
7 prepared to

8 (Indiscernible - simultaneous speech)

9 COMMISSIONER ANDERSON: Yes, if we take them home and
10 review them tonight so that we know what we're doing.

11 COMMISSIONER HANSON: Mr. Chairman, just a technicality.
12 Do we need to table our motion on the North Slope Borough
13 detachment issue until tomorrow at 9:30 so that we have a
14 free agenda for consideration of our decisional statements?

15 CHAIRMAN BETTISWORTH: I've entertained that motion.

16 COMMISSIONER HANSON: Okay. I move that we table the
17 motion that's on the floor regarding the proposed detachment
18 from the North Slope Borough and consideration of it until
19 9:30 a.m. tomorrow morning.

20 CHAIRMAN BETTISWORTH: Second?

21 COMMISSIONER ANDERSON: Second.

22 CHAIRMAN BETTISWORTH: Okay. Without objection, we've
23 placed this issue on the table until 9:30 tomorrow morning.
24 If there's no other comments, I move we recess until 8:30
25 tomorrow morning.

26 (Off record)

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CHAIRMAN BETTISWORTH: This is the Commission on the petition to detach certain areas from the North Slope Borough. Good morning, everyone. We've just received suggested statement of decision in response to petition for the boundary change from our Staff. And I guess with that I'd like to have Wilson Condon sort of take us through this document.

SPECIAL COUNSEL CONDON: Okay.

COMMISSIONER HANSON: Mr. Chairman.

CHAIRMAN BETTISWORTH: Mr.

COMMISSIONER HANSON: Just -- point of information. Do we need to take any action to.....

CHAIRMAN BETTISWORTH: We do.

COMMISSIONER HANSON:not have this tabled any more?

CHAIRMAN BETTISWORTH: Yes, we need to put this back on the table.

COMMISSIONER HANSON: Mr. Chairman, I move that we replace the issue of the detachment on the -- of the territory from the North Slope Borough back as our main item of business.

COMMISSIONER ANDERSON: I would second that.

CHAIRMAN BETTISWORTH: Without objection? So ordered. Mr. Condon.

1 SPECIAL COUNSEL CONDON: My apologies for taking an hour
2 longer than I said I would to get this back to you, but I just
3 could not get somebody up any earlier than 6:30 this morning
4 to do the typing. And what I've placed before you is a rerun
5 version of the suggested statement of decision which I placed
6 before you yesterday, which covered the procedural portions of
7 this decision. The only changes that have taken place in the
8 draft through page 8, from the draft that I presented to you
9 yesterday, is that we have inserted the information pertaining
10 to the newspaper publication of the notices, and that appears
11 at the top of page 6. On page 9, we have begun to insert new
12 material; that description of that detachment area -- or the
13 proposed detachment area -- what it should say is -- was taken
14 from the document which you asked us not to use, the proposed
15 decision from the Staff. I simply went to that because I
16 knew that that would be a quick place to get a couple of
17 paragraphs that describe the area. And if you want to use a
18 different description of that area, that's fine. The next
19 section, factors, I urge you to read through that section very
20 carefully and determine whether or not proceeding in the
21 manner proposed in that two pages -- or page and three-
22 quarters -- is acceptable to the Commission in terms of
23 versed the way findings and conclusions are dealt with with
24 respect to fact -- to factors and the incorporation both of
25 the proceedings yesterday -- the transcript of the proceedings

1 during the time that those considerations were on the -- being
2 considered. And then the summaries that are proposed for
3 Attachment A, which is a -- a -- the same sheets we were
4 looking at yesterday, except that there's a summary now at
5 the bottom with respect to each one of the proposed factors.
6 And finally, the introductory section to a best interest
7 determination has been written. My recommendation for --
8 for proceeding is as follows: that you review the factors
9 section and make sure that it -- that you have no objection
10 to proceeding in that manner. You then go to the 15 factors
11 sheet in the back and carefully review the pertinent facts
12 summary at the bottom of each page and make sure that you
13 don't want any additional changes made there. You'll notice
14 that we simply -- there -- there are a number of typos which
15 are in the draft, and we just didn't have time to run it out
16 again. And we can make other corrections if the Commission
17 wishes. Once you have reviewed that material, you should
18 proceed to considering the best interests of the State, the
19 territory to be detached, and the Borough in light of your
20 review of which you did yesterday and make those determina-
21 tions. Once you have made those determinations, then you
22 can -- you'll be at a point where you'll need to make more
23 decisions about where you go from there and those don't need
24 to be made now. Those are my recommendations.

25 CHAIRMAN BETTISWORTH: Is there any comments on the part

1 of the Commissioners?

2 COMMISSIONER HANSON: When rea -- in reading quickly over
3 your factors, but I'd like to read it again, take a good --
4 you're looking at the official record of -- the findings on
5 the factors has not -- not necessarily being the summaries
6 you're providing.

7 SPECIAL COUNSEL CONDON: Well, it includes the summaries,
8 and it includes the -- the conclusions reached by the Com-
9 mission during their deliberations yesterday with respect to
10 each of those 14 factors that you chose to consider.

11 COMMISSIGNER HANSON: No questions. I just suggest we
12 take a little bit of time to read this.

13 CHAIRMAN BETTISWORTH: Okay. Since we just received
14 this, I think we will take a -- what do you think?

15 COMMISSIONER HANSON: Fifteen minutes.

16 CHAIRMAN BETTISWORTH: Fifteen minutes and review this
17 document we just received and reconvene in 15 minutes.

18 (Off the record)

19 SPECIAL COUNSEL CONDON: Now, one item. What I -- I only
20 made enough copies to give the four of us up here at the
21 table one, in each of the brief filers, one -- there's some-
22 body standing by the copy machine up there waiting to run as
23 many more as necessary of the document at this stage. And if
24 I see ten hands, I'll run ten. If I see two hands, I'll run
25 two. And I see approximately a dozen, so we'll run a dozen.

1 Thank you.

2 (Off the record)

3 CHAIRMAN BETTISWORTH: I'd like to reconvene the de-
4 cisional meeting of the Local Boundary Commission, petition
5 for detachment from the North Slope Borough. Okay, we've had
6 a minute to review -- or 15 minutes to review the material
7 prepared to us -- for us by Counsel. I guess the first area
8 that he wants -- that they want us to take a look at was
9 Section 3, factors. Is there are any comments by the Com-
10 mission on that section?

11 COMMISSIONER HANSON: Mr. Chairman, I just support the
12 suggestion that the transcript of our lengthy conversations
13 yesterday be part of the findings on these factors since there
14 are many concerns and points made that it was not necessarily
15 possible to get them all in the pertinent facts summary.

16 CHAIRMAN BETTISWORTH: Any other comments? Dave?

17 (No audible response)

18 CHAIRMAN BETTISWORTH: The -- page 10 of -- don't we
19 discuss that here? Isn't that in here someplace?

20 COMMISSIONER HANSON: Yeah. That's -- yeah. Okay.
21 I just support what's on page 11.

22 CHAIRMAN BETTISWORTH: Okay, I guess what we will do

23 *

24 *

25 *

1 next, then, was to take a look at these factor sheets and make
2 what comments we would with respect to the pertinent fact
3 summaries. I guess -- also, we need to review these interpre-
4 tations and sub-issues -- those are new elements that have
5 been placed on these factor sheets. Beginning with factor
6 number 1, are there any comments with respect to any of those
7 findings notations? Any additions?

8 COMMISSIONER HANSON: I guess those are the ones
9 where I was particularly concerned about the record of yes-
10 terday's discussion being part of the findings because there
11 are so many things you could add or delete. I have no problem
12 with it, so.....

13 CHAIRMAN BETTISWORTH: Okay. Then we'll move on to
14 number 2.

15 COMMISSIONER HANSON: I guess, Mr. Chairman, isn't it
16 implied or I could ask maybe Counsel on this. The North
17 Slope Borough's position on this talked about that this should
18 not be a comparative type of consideration. We, of course,
19 included one of many things that we looked at when we looked
20 at this standard. I -- I guess I'm just wondering, is there
21 any -- is there any need for any more clarification on your
22 last statement there, the North Slope Borough's arguments on
23 practicality are unpersuasive in light of the record as a
24 whole.

25 SPECIAL COUNSEL CONDON: I -- I don't think so.

1 COMMISSIONER HANSON: Okay.

2 CHAIRMAN BETTISWORTH: I guess on -- on my comment, I
3 think that the important part of this is that under the pro-
4 posed interpretation or definition it is -- what we said is
5 impractical is interpreted to mean unwise or imprudent. And
6 we've also noted that the provision calls for either -- we
7 have two -- two conditions to evaluate. One is -- is pre-
8 clusion, and the other one is -- is unwise or imprudent. So
9 I guess what we've -- we've essentially said is it -- in the
10 summary facts is that while it's not precluded, it is im-
11 practical under the definition. Any other comments on number
12 2? Number 3, then. Is there any comment on number 3?

13 COMMISSIONER HANSON: Mr. Chairman, I -- I'm trying to --
14 I'm wondering if this could be interpreted two ways through
15 our discussion yesterday.....

16 CHAIRMAN BETTISWORTH: No.

17 COMMISSIONER HANSON:in the way the factor ends is
18 the fact that response from an integrated local government
19 is not precluded -- in other words, we didn't find that it was
20 precluded -- is inconclusive on the resolution of the best
21 interest determinations the Commission must make. I'm won-
22 dering if on this one, as opposed to, say, number 1, where
23 we -- we -- we couldn't really come to a conclusion -- on
24 this one we came to a conclusion that it is -- you know, a
25 factor asked is a lack of communication to say is preclude --

1 communication and exchange necessary for responsive and in-
2 tegrated local government. And we did come to a conclusion
3 that it did not preclude it. And I guess I would have to --
4 you could interpret that to mean, then, that this factor does
5 not support detachment. I mean, I -- I think rather than --
6 because we could come to a conclusion on this factor, and
7 this factor asked that question. And so I -- I think it is --
8 it would be one of the considerations in our best interest
9 determinations.

10 SPECIAL COUNSEL CONDON: So you would like to say, there-
11 fore, that.....

12 COMMISSIONER HANSON: I -- I think if I'm.....

13 SPECIAL COUNSEL CONDON:our conclusions regarding
14 this particular factor do not support detachment.

15 COMMISSIONER HANSON: Right. Well.....

16 CHAIRMAN BETTISWORTH: (Indiscernible -- simultaneous
17 speech).....

18 COMMISSIONER HANSON: That's -- that's what we're.....

19 CHAIRMAN BETTISWORTH:we're discussing that.

20 COMMISSIONER HANSON:(indiscernible -- simultan-
21 eous speech)

22 COMMISSIONER HANSON: I'm trying -- I'm trying to
23 remember back to yesterday, too. Now what are your -- what
24 are your thoughts on it, sir?

25 CHAIRMAN BETTISWORTH: My -- my thoughts on this is

1 that -- in fact, what I did is I -- I extended the matrix that
2 is proposed up here and actually went through on each factor
3 and made pluses and minuses and zeroes. So that on this
4 factor, really what it comes down to is, is the factor
5 applicable with respect to the best interest determination.

6 COMMISSIONER HANSON: Uh-huh.

7 CHAIRMAN BETTISWORTH: And it isn't so much whether
8 it is a negative it's is there applicability. And.....

9 COMMISSIONER HANSON: Since it isn't precluded, there is
10 an applicability.

11 CHAIRMAN BETTISWORTH: Yeah. And I guess my rec-
12 commendation here -- and I -- I thank you for bringing this
13 up -- is that I would just strike everything from -- on that
14 last clause, the fact that responsive integrated government
15 is not precluded -- I -- I guess we -- what we need to say is
16 that -- it is not.....

17 COMMISSIONER HANSON: It is not precluded.

18 CHAIRMAN BETTISWORTH:it is not precluded,
19 period.....

20 COMMISSIONER HANSON: Period.

21 CHAIRMAN BETTISWORTH:and forget about the rest
22 of it that talks about inconclusive.

23 COMMISSIONER HANSON: Uh-huh. I -- I agree to that
24 change. And it'd just start out responding the -- the finding
25 is that.....

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CHAIRMAN BETTISWORTH: Okay. Is there any other comment?

COMMISSIONER HANSON: No.

CHAIRMAN BETTISWORTH: Factor number 4.

COMMISSIONER HANSON: Just for clarification, maybe, that we can make on this. Number 3, under pertinent facts? These latter two sub-issues, we're referring to number 2 and 3. Is -- is that your -- way you interpret that?

CHAIRMAN BETTISWORTH: Uh, yes.

COMMISSIONER HANSON: I -- maybe put in parenthesis 2 and 3 because I wasn't sure. I mean, I interpreted it that way, but I'm not -- wasn't sure -- a reader wouldn't know.

CHAIRMAN BETTISWORTH: Actually, that paren should not be under -- under 3. It should be separate.

COMMISSIONER HANSON: Separate.

UNIDENTIFIED: Yeah.

CHAIRMAN BETTISWORTH: Okay. Wilson, on this -- on the second page of 4 there's been a strike-out in the third paragraph down and written above. I can't, with my copy, fully read exactly what that says there. Could you recap that?

COMMISSIONER HANSON: Let -- let me -- let me trade.

CHAIRMAN BETTISWORTH: Here.

SPECIAL COUNSEL CONDON: This is our attempt at -- to -- to try to figure out what you were saying at the conclusion

1 when we were talking about this yesterday. And it very well
2 may not say what you were trying to say. Finally, if the
3 Northwest Artic Borough were to depend for, quote, in lieu
4 of tax payments upon the road while the North Slope Borough
5 continued to tax the mine site itself, the enterprise would
6 have to carry the full weight of the taxation of both Bor-
7 oughs. It is at least possible that this would make the mine
8 uneconomic, and hence there would be no tax base at all.

9 COMMISSIONER BETTISWORTH: That actually is exactly the kind
10 of comment that I was looking for there.

11 COMMISSIONER HANSON: Again, your last sentence -- it
12 is possible?

13 SPECIAL COUNSEL CONDON: Yes.

14 COMMISSIONER HANSON: It is -- let's.....

15 * * *

16 CHAIRMAN BETTISWORTH: No, no, that's okay. This is the
17 only question that I have.

18 SPECIAL COUNSEL CONDON: I brought them with me. I have
19 a couple copies right here.

20 CHAIRMAN BETTISWORTH: Okay. If you can get the staple
21 out.

22 SPECIAL COUNSEL CONDON: I'm sure I can.

23 COMMISSIONER HANSON: All I needed was that -- the word-
24 ing in that one line.

25 CHAIRMAN BETTISWORTH: Does someone want to give him the

1 wording in that one line now. It's got a copy before.....

2 SPECIAL COUNSEL CONDON: Well, it says it is also
3 possible.....

4 CHAIRMAN BETTISWORTH: No.....

5 COMMISSIONER HANSON: (Indiscernible) least.

6 SPECIAL COUNSEL CONDON: It is at least possible.....

7 CHAIRMAN BETTISWORTH. Oh, okay.

8 SPECIAL COUNSEL CONDON:that this would make the
9 mine uneconomic, and hence there would be no tax base at all.

10 COMMISSIONER HANSON: Okay. And then, I'm just wanting
11 to make sure that.....

12 SPECIAL COUNSEL CONDON: You'll each have copies of
13 the.....

14 COMMISSIONER HANSON:where it says -- but I'm
15 just -- the real reason.....

16 SPECIAL COUNSEL CONDON: Okay.

17 COMMISSIONER HANSON:I wanted to make sure that it's
18 a sufficiently qualified statement, and I believe it is.
19 Mr. Chairman.

20 CHAIRMAN BETTISWORTH: Yes.

21 COMMISSIONER HANSON: Up above in that one, what is the
22 status -- perhaps I can ask Counsel, what is the status of
23 the line, Commission believes that if proposed detachment is
24 not approved, there might arguably have to be compensation
25 made by the North Slope Borough to NANA to compensate NANA

1 for the impact costs, et cetera.

2 CHAIRMAN BETTISWORTH: I just -- I deleted that. I don't
3 know -- I mean, that was.....

4 COMMISSIONER HANSON: There's no disdained import to
5 this.

6 SPECIAL COUNSEL CONDON: I can't hear you.

7 CHAIRMAN BETTISWORTH: Are there any comments about
8 factor number 4? Any more comments? The one comment that
9 we had, Wilson, is just that the paren under 3 on the first
10 page should really be a general note.

11 SPECIAL COUNSEL CONDON: Number 4.

12 COMMISSIONER HANSON: It should be separated.

13 SPECIAL COUNSEL CONDON: Okay. I'm not sure (indiscern-
14 ible) what you want to do.

15 COMMISSIONER HANSON: You'd drop the -- you would drop
16 it down a line.....

17 SPECIAL COUNSEL CONDON: Okay.

18 COMMISSIONER HANSON:so that it's clear that it
19 refers to both.....

20 CHAIRMAN BETTISWORTH: Factors.

21 COMMISSIONER HANSON:factors 2 and -- or, comments
22 2 and 3.

23 SPECIAL COUNSEL CONDON: Okay.

24 COMMISSIONER HANSON: That was unclear. Just under 3.

25 CHAIRMAN BETTISWORTH: All right. Factor number 5. No

1 comment on 5? Number 6. Any comment on 6? Okay. Onto fac-
2 tor number 7.

3 COMMISSIONER HANSON: I guess I'd like to look at the
4 last paragraph in number 6 for a second to make sure that's
5 clear. In the last line, I guess. It's avoided cost for
6 services that the North Slope Borough -- I'll just read it
7 to myself. Perhaps I'm just misreading it. Could you read
8 that, perhaps, please, Mr. Condon, and could you -- are you
9 catching an awkwardness or something that I -- Commission
10 observes -- or -- Commission observes that counter bal-
11 ancing any lost revenue to the North Slope Borough which might
12 be occasioned by the detachment will be.....

13 SPECIAL COUNSEL CONDON: There will be.....

14 COMMISSIONER HANSON: There will be a savings in the
15 form of avoided costs for services that the North Slope
16 Borough.....

17 SPECIAL COUNSEL CONDON: Would not.....

18 COMMISSIONER HANSON:would not be required to
19 incur in the detached area. Okay. Thank you.

20 CHAIRMAN BETTISWORTH: Are there any other considera-
21 tions in this -- factor number 7?

22 COMMISSIONER HANSON: Perhaps my -- Mr. Chairman, per-
23 haps my concern about that last paragraph in number 7 had to
24 do just with whether or not we need any additional qualifica-
25 tion -- there will be some counter balancing, but is it clear

1 that the extent of that counter balancing is not -- is not
2 indicated?

3 CHAIRMAN BETTISWORTH: Can you say that again?

4 COMMISSIONER HANSON: Okay. I guess I'm -- I just want
5 to make sure it's clear that we were not able to come to any
6 conclusion on the extent of counter balancing -- savings of
7 service -- not having to give services.

8 CHAIRMAN BETTISWORTH: Yeah, right.

9 COMMISSIONER HANSON: Okay.

10 CHAIRMAN BETTISWORTH: It's indeterminate. Huh?

11 SPECIAL COUNSEL CONDON: We can add a sentence, if
12 you wish.

13 COMMISSIONER HANSON: I think that would be worthwhile.
14 I guess -- there's one other thing that doesn't show up here
15 that concerns me a bit, and that -- at least should be on the
16 record that we did hear and did observe that -- and it's in
17 the record, that there was a request on the part of the North
18 Slope Borough, or an issue raised by the North Slope Borough,
19 that there was -- because of this -- the financial impacts of
20 this detachment on the North Slope Borough that there should
21 be some compensation. And I guess what -- in -- in light
22 of that last paragraph, then, it would be -- I would like to
23 make sure that the record reflects the fact that we could --
24 we're finding that it's indeterminate what the impact -- that
25 impact may be and what kind of compensation would be legitimate,

1 whether it's necessary or -- or.....

2 CHAIRMAN BETTISWORTH: Yeah.

3 COMMISSIONER HANSON:if it's appropriate, or.....

4 CHAIRMAN BETTISWORTH: Yeah.

5 COMMISSIONER HANSON:it'd be -- this is probably
6 something else that if we were to go ahead with this petition,
7 we would also be dealing with in our fourth standard that
8 deals with assets and liabilities.

9 CHAIRMAN BETTISWORTH: All right. Any other comments?
10 Factor number 8. Are there any comments on factor number 8?

11 COMMISSIONER HANSON: I guess I just want to make sure
12 that the record clearly indicates a very sincere considera-
13 tion of this factor in yesterday's deliberations. I'm
14 bothered by the last sentence on the second page of factor
15 number 8, whether or not it in any way -- its reference to
16 evil, even though I understand it, would in any way infer a
17 lack of serious and sincere consideration for us. It's not
18 a word that I used and I know the Commission never used it,
19 and I would suggest that we reword that last paragraph.

20 SPECIAL COUNSEL CONDON: Perhaps we could just eliminate
21 the next to the last sentence. I mean -- and the -- the last
22 one. Stop at responsibility.

23 COMMISSIONER HANSON: And responsibly.

24 SPECIAL COUNSEL CONDON: Uh-huh. This sentence would
25 have to be.....

1 CHAIRMAN BETTISWORTH: Why don't you just take it
2 out here. Why don't you just change evil to fear and not put
3 the quotes around it?

4 COMMISSIONER HANSON: What would you call concern?

5 CHAIRMAN BETTISWORTH: Concern.

6 COMMISSIONER HANSON: Okay.

7 COMMISSIONER ANDERSON: That might be even better.

8 COMMISSIONER HANSON: Okay.

9 CHAIRMAN BETTISWORTH: Any other comment on 8? Factor 9.

10 COMMISSIONER HANSON: Under the first paragraph there,
11 I think we need to add -- we say during a public hear-
12 ing in Kotzebue. It really should be Noatak and Kotzebue.

13 SPECIAL COUNSEL CONDON: Right.

14 COMMISSIONER HANSON: And also, I think when we refer to
15 Kotzebue areas, we're really referring to the people in the
16 NANA region, and I'm not sure that's clear in a couple of
17 places in these findings. So we could either add, and the
18 NANA region. People of Noatak, Kivalina, Kotzebue, and the
19 NANA region might be a more accurate way because we did also
20 talk about concerns of the people upriver and.....

21 CHAIRMAN BETTISWORTH: Well, that's true.

22 SPECIAL COUNSEL CONDON: Yes.

23 COMMISSIONER HANSON:Ambler and Shungnak.....

24 CHAIRMAN BETTISWORTH: Yes.

25 COMMISSIONER HANSON:and that area.

1 CHAIRMAN BETTISWORTH: Yes.

2 COMMISSIONER HANSON:regarding subsistence use of
3 the detached area.

4 CHAIRMAN BETTISWORTH: We might reference just the
5 northern NANA area. The portions of the Kobuk and Noatak River
6 drainages.

7 COMMISSIONER HANSON: Well, except there's one other
8 concern here, now. The employees of Red Dog will come from
9 all the NANA region, so it might be just as easy to --
10 Kotzebue and the NANA region. Okay?

11 CHAIRMAN BETTISWORTH: Any other comment.....

12 COMMISSIONER HANSON: Noatak, Kivalina, Kotzebue, and
13 the NANA region.

14 CHAIRMAN BETTISWORTH: Any other comment on 8? Nine.
15 Factor 10. Any additions, corrections? Comments? Okay,
16 then we'll go on to factor 11.

17 COMMISSIONER HANSON: Mr. Chairman, I think that perhaps
18 our discussion on this factor, at least to -- my interpre-
19 tation of our discussion was not complete -- is not com-
20 pletely reflected here. I'm concerned about the fourth
21 paragrapn under pertinent facts. Commission finds the
22 evidence on this factor to be inconclusive on whether the
23 detachment should be approved or rejected. I don't believe
24 we came to that conclusion yesterday. I would suggest just
25 eliminating that paragraph from these facts. We -- we have

1 not yet -- especially in light of the type of best interest
2 standards we're dealing with here. I think that what a
3 particular area feels is a consideration that the Board needs
4 to be looking at, and.....

5 CHAIRMAN BETTISWORTH: Y ah, I see -- okay. I guess I
6 would agree with that, given that we've got -- actually, the
7 fifth paragraph there really.....

8 COMMISSIONER HANSON: Right.

9 CHAIRMAN BETTISWORTH:says what needs to be said.

10 COMMISSIONER HANSON: Yes.

11 COMMISSIONER ANDERSON: Yes, I would think it would be
12 good just to delete the whole paragraph.

13 * * *

14 CHAIRMAN BETTISWORTH: Any other comments on 11?

15 Factor 12? (Pause) I guess I would like to add a
16 comment here that we -- that the conditions that are applicable
17 here -- maybe it doesn't go in this place. Maybe it goes
18 over in the factor that deals with -- in fact, maybe the one --
19 one that we've already left. The comment I was going to make,
20 and maybe it needs to go on one of those other factors, is
21 that the conditions that are applicable here to perfect these
22 boundaries are not necessarily applicable in other areas of
23 the State.

24 COMMISSIONER HANSON: I think that's an appropriate
25 statement to be making because we talked about that yesterday.

1 A unique situation, this particular boundary, and the lack of
2 other organized governments right in the area. I also think
3 that we -- we did mention yesterday and go into quite a bit
4 of detail on ' economic consideration and the -- the unit
5 of the NANA region that was an eco -- was to a certain extent
6 an economic unit that seemed to be met by the proposed change.

7 CHAIRMAN BETTISWORTH: Any comment? Okay, then with
8 that we'll go on to factor 13. I guess I would like to say
9 here that in Fairbanks I made mention -- the testimony that
10 we had heard in Point Hope regarding their interest in seek-
11 ing work at the Red Dog mine site -- the term that I used at
12 that time was a term called -- it was blackmail. I guess my
13 feeling in reflecting on that is that that was probably too
14 strong a language. But I do want the record to reflect that,
15 for sure, at the current time, the -- the situation is such
16 that while permits that have been issued have -- are admini-
17 istrative-type procedures and the -- (e memorandum
18 agreement on which the detachment was submitted to the voters
19 require -- did require some local hire of people in the NANA
20 -- or the North Slope region. There's a political
21 process that would have to yet take place in terms of rezoning
22 that property as a -- as a resource use, and that in that --
23 during that period that there is the potential for some
24 leverage to be placed on the -- the developers of the mine,
25 with respect to -- to local hire. And I understand the

1 interest. I just wish that it would be noted that this -- I'm
2 not sure this is quite the right place, but that -- that ob-
3 servation I wish to be noted for the record. Is there any
4 comment?

5 COMMISSIONER ANDERSON: No.

6 COMMISSIONER HANSON: I (indiscernible) that,
7 and perhaps this is the right place since it deals directly
8 with.....

9 CHAIRMAN BETTISWORTH: Management.

10 COMMISSIONER HANSON:management and con-
11 trol.

12 CHAIRMAN BETTISWORTH: Are there any other additions to
13 the.....

14 COMMISSIONER HANSON: Yes. I have a concern about the
15 last sentence: important plan is the need for coordination
16 and communication between the NANA people and the Point Hope
17 people with regard to the regulation local government control
18 over the Red Dog development. I guess I'm wondering if it
19 should be -- I think our concern was over over-development in
20 the detached area. I want to just broaden that. And I guess
21 it's clear that the reason for the communication is the
22 environmental and subsistence concerns noted above.

23 CHAIRMAN BETTISWORTH: You might also add the issue of
24 employment.

25 COMMISSIONER HANSON: Okay.

1 CHAIRMAN BETTISWORTH: Any other comments on factor 13?
2 Factor 14 we are not using. We will then go on to factor
3 15. Any comments on factor 15?

4 COMMISSIONER HANSON: In the last paragraph. I guess I
5 also -- I -- we made a big point yesterday that the Commission
6 would be considering this particular concern if the Borough
7 formation proceeds during the Borough formation procedures,
8 which we also review. And I guess I'd like that clearly
9 noted here. There is just an add on that the Commission will
10 also be -- will consider this particular concern again when
11 they review any Borough formation action that may take place
12 in the future for NANA area Borough.

13 CHAIRMAN BETTISWORTH: Okay. We have completed the
14 review of the factors. The next order of business is to make
15 best interest determinations with respect to the best in-
16 terest of the State, the best interest of the area, and the
17 best interest of the Borough. I think an appropriate way to
18 proceed with this would be to go to each factor and each
19 Commissioner offer their observations on that factor with
20 respect to this best interest determination factor by factor.

21 COMMISSIONER HANSON: For all three areas each factor?

22 CHAIRMAN BETTISWORTH: For each -- all three areas at
23 each time. I guess starting with factor number 1, Mr. Hanson
24 what are your comments with respect to best interest?

25 COMMISSIONER HANSON: Well, I think we came to the

1 conclusion that this doesn't have a direct bearing on the best
2 interest because -- except to the fact that it does not -- it
3 does not provide a reason. We were not able to come to a
4 conclusion, but there is enough conflict where things are
5 enough substantially different to provide a reason for detach-
6 ment through this factor. So, we looked on it as a -- I
7 guess as a neutral -- had no -- as a factor we could come to
8 no conclusion on it.

9 CHAIRMAN BETTISWORTH: Is there any comment on.....

10 COMMISSIONER ANDERSON: No.....

11 CHAIRMAN BETTISWORTH:Jo?

12 COMMISSIONER ANDERSON:no, I think I have no
13 comments on that. Different comments.

14 COMMISSIONER HANSON: I -- I guess -- one conclusion
15 that we could say is that -- while not significant that there
16 are -- there is a distinct -- the last paragraph is really
17 the.....

18 CHAIRMAN BETTISWORTH: Uh-huh.

19 COMMISSIONER HANSON:the issue, and -- so, it's a
20 mildly best interest -- but I -- I'm looking at the way the
21 factor is stated, and its use is substantially different in
22 conflict, and that's the only reason that I'm being careful.
23 I -- I agree with what you're saying, but I'm not sure of
24 how important.....

25 CHAIRMAN BETTISWORTH: Well, I -- I'm having a

1 little bit of a problem with respect to best interest as
2 applied to factors. The -- as I work through this thing, I
3 have a hard time saying, all right, that factor is -- findings
4 of that factor are in the interest of the State, are not
5 necessarily in the interest of the North Slope Borough or
6 any interest in the affected area. This is one particularly
7 where that's the case; is this a statewide interest that --
8 that would be in conflict, or -- I guess it would be. So,
9 what we're really saying is that it would -- it's neutral
10 and that it's not affected.

11 COMMISSIONER HANSON: Right.

12 CHAIRMAN BETTISWORTH: Any comment?

13 SPECIAL COUNSEL CONDON: I was going to make the
14 observation -- it doesn't really make I think any legal
15 difference in which order you do this. You might find it
16 easier to just say, okay, let's talk about the State's in-
17 terest here and go down the State.....

18 CHAIRMAN BETTISWORTH: Okay.

19 SPECIAL COUNSEL CONDON:and just talk about each
20 factor and then evaluate their relative weight. I mean,
21 some of them are just not pertinent to the determination of
22 the State's interest; some of them weigh heavily, some of
23 them weigh lightly one way or the other.

24 CHAIRMAN BETTISWORTH: Uh-huh.

25 SPECIAL COUNSEL CONDON: And then make a determination

1 with respect to the State on the basis of your consideration
2 of each of those factors.

3 CHAIRMAN BETTISWORTH: Okay. I think that's a great way
4 to proceed.

5 SPECIAL COUNSEL CONDON: And then -- and then turn to the
6 detached territory, and then turn to the Borough. And you
7 don't have to discuss all of the factors in detail with respect
8 to each because some just don't apply.

9 CHAIRMAN BETTISWORTH: Okay. I -- in going through
10 these, I made up a matrix, as I said, that distributed State,
11 area, and Borough best interests with respect to factors and
12 put in pluses, zeroes, and minuses, as -- as we worked
13 through that. So, then, I could start real easy on the best
14 interest of the State and say that from my way of thinking,
15 number 4, for sure, is in the best interest of the State,
16 it's part of the constitutional mandate that we maximize or
17 promote local self government. Factor number 6, will the pro-
18 posed detachment encourage efficiency in provision of local
19 government services to the proposed detached territory. I
20 guess the finding is that it will, and that is in the interest
21 of the State. It reduces the cost of government to the State
22 of Alaska. I go to factor number 8, I've got in that case a
23 plus and a zero. Will proposed detachment strengthen or
24 weaken the longterm stability of all Boroughs around -- all
25 Boroughs and Borough finances throughout Alaska. I guess the