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1 finding is that we do not consider this action to have any
2 effect on those proposed boundaries. I think it's in the
3 interest of the State that that be the case, that really what
4 we're dealing with is a singular issue here. Is there any
5 comment? I guess (indiscernible -- simultaneous speech).

6 COMMISSIONER HANSON: (Indiscernible -- simultaneous
7 speech). Should we comment on them as you go through them?

8 CHAIRMAN BETTISWORTH: Yeah, why don't we do that.

9 COMMISSIONER ANDERSON: Yeah, I think that would be best.

10 CHAIRMAN BETTISWORTH: Okay.

11 COMMISSIONER HANSON: Well, I'd like to back up then.

12 CHAIRMAN BETTISWORTH: How far?

13 COMMISSIONER HANSON: Well, I feel number 2, the fact
14 that we found under the definition of impractical that it was
15 impractical. The geographical location and configuration of
16 the territory proposed to be detached make the provision of
17 Borough services impractical from the North Slope Borough is
18 one to take into consideration it is in the State interest,
19 and that it's in the State interest to promote practical use
20 of -- practical application of government, practical use of
21 State funds. State funds are used to great degree in local
22 government also. I agree with you on the max -- the maxi-
23 mizing of State government -- or excuse me, of local govern-
24 ment. I feel that's very clear. And the efficiency, also, I
25 feel is clear. On the weaken or strengthen longterm stability,

1 though it's in the State's interest not -- you know, not to
2 make things unstable, but to strengthen things, we could argue
3 that forming a new Borough strengthens -- could be looked on
4 as strengthening stability. But I really think this one --
5 the fact that we didn't find -- we didn't find necessarily
6 either way, did we? It -- it didn't hurt the stability, and
7 -- did we find that it necessary promoted stability? I -- I
8 don't believe we found that either. So, I think I'd find
9 that as a neutral.

10 CHAIRMAN BETTISWORTH: I guess as part of the interpre-
11 tation of this, the way I look at it, is that if it -- if it's
12 a neutral.....

13 COMMISSIONER HANSON: See, we said it was.....

14 CHAIRMAN BETTISWORTH:it's really in the best
15 interest of the State that it not have any effect on any --
16 on other boundaries, right?

17 COMMISSIONER HANSON: Except it was an either/or, and
18 it didn't strengthen it, either. Our conclusion to the factor
19 -- let's see what that was.

20 CHAIRMAN BETTISWORTH: Eight. It says will the proposed
21 detachment strengthen or weaken the longterm stability of all
22 Borough boundaries and Borough finances throughout Alaska.
23 The -- I guess it won't strengthen, necessarily, or weaken.
24 It has no effect on those boundaries, but that -- and finances,
25 and that is in the interest of the State.

1 COMMISSIONER HANSON: Maybe we can -- I'm looking at.....

2 CHAIRMAN BETTISWORTH: Mr. Condon.

3 SPECIAL COUNSEL CONDON: Well, you know, that -- you --
4 you -- you need to be careful not -- not to make findings
5 that something is in the interest of the State because their
6 interest -- interest in the State obviously is in State in-
7 terest to have stable boundaries. And by finding that this
8 doesn't destabilize the boundaries, it doesn't mean that your
9 actions here make them more stable. It's like my saying,
10 well, I -- I run outside and jump in a snow bank. That
11 doesn't tend to destabilize boundaries, so you don't want to
12 make a finding that it stabilizes boundaries because it
13 doesn't have anything to do with it.

14 CHAIRMAN BETTISWORTH: Okay.

15 SPECIAL COUNSEL CONDON: So, I think that you -- that's
16 what you need to be careful of.

17 CHAIRMAN BETTISWORTH: I guess I would agree with you
18 on this one, that it's really a neutral. On number 9. Will
19 proposed detachment protect subsistence resources and balance
20 development and conservation concerns? The -- I guess our
21 determination here is that the detachment does -- does pro-
22 mote and protect. That is in the State's interest from a
23 minor standpoint, so I guess I would agree that factor number
24 9 finds in the -- based in the State's interest. We -- the
25 State has a policy that deals with subsistence uses, and.....

1 COMMISSIONER HANSON: Right. Protection of subsistence
2 resources and also bal.....

3 CHAIRMAN BETTISWORTH: Right.

4 COMMISSIONER HANSON:many policies regarding
5 balance development and conservation.

6 CHAIRMAN BETTISWORTH: On item 10.....

7 COMMISSIONER HANSON: Though we should note that this is
8 a more minor.....

9 CHAIRMAN BETTISWORTH: Right.

10 COMMISSIONER HANSON:consideration.

11 CHAIRMAN BETTISWORTH: I have this listed as neutral.

12 COMMISSIONER HANSON: I agree.

13 CHAIRMAN BETTISWORTH: Item 11. Essentially, the way I
14 looked at this was it may not have any applicability to the
15 best interest of the State. It's just that the Commission is,
16 as a body of the State of Alaska, is required to make its
17 determination.....

18 COMMISSIONER HANSON: For State interest, I think it's
19 neutral.

20 CHAIRMAN BETTISWORTH: Yeah. Okay. Twelve. Is it in
21 the State's interest to protect the boundaries of the North
22 Slope Borough and Northwest Artic Borough?

23 COMMISSIONER HANSON: I think it's in the State interest,
24 but I -- I don't -- I think it's been noted in the finding
25 that this isn't -- this is given much less weight from some

1 of the other factors.

2 CHAIRMAN BETTISWORTH: Okay.

3 COMMISSIONER HANSON: I take it, Jo, that you have no....

4 COMMISSIONER ANDERSON: I'm agreeing, or I would comment.

5 CHAIRMAN BETTISWORTH: Thirteen. I guess from the stand-
6 point that control of industrial development and management
7 and social and economic change is in the interest of the
8 State in this case, then, if we find that the finding is that
9 this factor does -- the detachment does facilitate this
10 control in that light then it's in the best interest of the
11 State.

12 COMMISSIONER HANSON: Especially since it's referring
13 to "by those communities and people most affected". I think
14 this refers back to the general promotion of local, re-
15 sponsible government.

16 CHAIRMAN BETTISWORTH: Okay. Under 15. Could the --
17 uncontrolled development occur before the proposed Northwest
18 Alaska Borough can implement its regulatory and planning
19 powers? I find that to be towards the neutral side of the
20 State's interest.

21 COMMISSIONER HANSON: Yeah. I don't think there's an
22 interest consideration -- or, I -- I mean, I don't think
23 that's a strong enough one. It should be neutral.

24 CHAIRMAN BETTISWORTH: Okay. Let's go, then, to the
25 area interests.

1 COMMISSIONER HANSON: Mr. Chairman.

2 CHAIRMAN BETTISWORTH: Yes.

3 COMMISSIONER HANSON: I'm just wondering if we should
4 quickly see if we're tracking or summarizing on my list what
5 -- see if the other Commissioners agree on the State interests.
6 It appears that we feel that the fact that the detachment
7 would maximize local self government, increase government
8 sufficiency -- efficiency, and that the -- the current
9 situation leads to on practical situations, as far as
10 government services are concerned, to the geographic situate,
11 geographic factors. And the fact that subsistence resources
12 would be protected and the boundaries more perfect, being a
13 minor concern, and the fact that it facilitates control over
14 the destiny of the local people by the local people. These
15 are the factors that we have found that make the detachment
16 appear to be in the State interest.

17 CHAIRMAN BETTISWORTH: Any comment?

18 COMMISSIONER HANSON: Is that a correct summary?

19 COMMISSIONER ANDERSON: I agree with those.

20 CHAIRMAN BETTISWORTH: Okay. I think the Commission
21 agrees with that summary. Under the best interest of the
22 area to be detached. I just know to leave these things -- we
23 -- we really do need to proceed ahead. The -- factor number
24 2 I have listed as being in the interest of the area to be
25 detached.

1 COMMISSIONER HANSON: I'd agree.

2 COMMISSIONER ANDERSON: I agree.

3 CHAIRMAN BETTISWORTH: Factor number 4 is in the interest
4 of the area to be detached. Factor number 6 is in the in-
5 terest of the area to be detached, efficiency of local gov-
6 ernment services. Factor number 9 -- 7 and 8 would be
7 neutrals, 9 would be in the interest of the area to be
8 detached; protect subsistence resources and balance develop-
9 ment and conservation concerns.

10 COMMISSIONER HANSON: I agree.

11 CHAIRMAN BETTISWORTH: Okay. Ten and 11 are neutrals.
12 Twelve would be in the best interest of the area to be
13 detached, perfecting the boundaries of the North Slope
14 Borough and the Northwest Arctic Borough. Thirteen, facilitate
15 control over industrial development. And 15, uncontrolled
16 development. They're all in the interest of the area to be
17 detached. Is there comments about those?

18 COMMISSIONER HANSON: I think my only comment is on 15.
19 Is your -- In other words -- and then I'm not sure that that
20 applies because our finding was that this is a legitimate
21 concern, it appears that adequate safeguards are being taken.
22 I'm not sure as a factor in the way it's stated that it comes
23 out is something that we really -- if we had found that
24 uncontrolled development -- it's very likely uncontrolled
25 development could occur. Then I think it would be relevant

1 to our interest determinations. Since we found the other way
2 with many qualifiers, I guess I don't think that this factor
3 is very relevant to our interest determination.

4 CHAIRMAN BETTISWORTH: Is there any comment, Jo?

5 CHAIRMAN ANDERSON: I think I would agree with Mr.
6 Hanson.

7 CHAIRMAN BETTISWORTH: Okay. In sum, then, do you.....

8 COMMISSIONER HANSON: Yes, we're again saying that --
9 that we -- after reviewing the factors we have found that the
10 detachment -- in interpreting it to mean the people who use
11 the detached -- the area proposed for detachment -- that it is
12 in their interest that the detachment be placed because it
13 promotes maximization of local government, efficiency in
14 government, the current situation being the geographic
15 situate, geographic factors, is unpractical for delivering
16 government services, that its subsistence resources or
17 balanced development will be promoted, the boundaries, to a
18 certain extent, will be protected for division between
19 these two regions, and that it will facilitate local control
20 over the development that takes place in the region, and
21 protection of the resources of the region by those most
22 affected. We have also once more indicated that factors 9
23 and 12, subsistence resources, a balanced development, and
24 protection of the boundaries, are a minor part of our deter-
25 mination on this best interest for the territory to be

1 detached. Is that accurate?

2 CHAIRMAN BETTISWORTH: I guess -- did you go to 13?
3 Did you deal with the issue of facilitate control over
4 industrial development?

5 COMMISSIONER HANSON: Yes, I did.

6 CHAIRMAN BETTISWORTH: Okay.

7 COMMISSIONER ANDERSON: I think that covers it very well.

8 CHAIRMAN BETTISWORTH: Okay. Best interest of the
9 Borough. Maybe somebody else wants to take this one
10 (indiscernible -- laughter).

11 CHAIRMAN BETTISWORTH: Want to call a recess?

12 COMMISSIONER HANSON: Do we have a door open?

13 CHAIRMAN BETTISWORTH: Is there -- Mr. Hanson, maybe
14 you would like to start us.

15 COMMISSIONER HANSON: Well, this -- this is a very
16 difficult one to deal with. I -- I guess I see the first --
17 the first factor that -- I think this is a balancing act,
18 whether or not it's in the best interest of the Borough. And
19 maybe I'll just try to go to the heart of the matter. I
20 think it is very difficult in looking at all these factors to
21 find that on the balance it is in the best interest of the
22 Borough. I don't necessarily say I can find that it is not
23 in the best interest of the Borough. The reason I have
24 trouble finding that it is in the best interest of the
25 Borough is that the public testimony -- there has been a vote

1 on the issue, which we rejected detachment of a smaller area,
2 even though where there were many benefits given to the people
3 of the North Slope Borough in that agreement that was
4 rejected. There was a petition given to us with 1,100 sig-
5 natures, which I don't think can be taken lightly. The --
6 and most of the leaders of the North Slope Borough have
7 communicated to us directly that they did not feel it was in
8 their best interest. On the -- actually, it appears they
9 would lose some tax base, though that may be neutralized to
10 some extent by a savings by not having to give services to
11 one more remote area. I guess I find number 11, factor 11,
12 to definitely show that it would not be in their interest.
13 Factor -- factor 7 on the North Slope Borough finances, I
14 think it becomes a minor factor because it doesn't appear to
15 have that much impact on the finances. But if you had to put
16 it on one side or other of the neutral column, you'd have to
17 put it on the side of probably not -- not helping. It doesn't
18 help the North Slope Borough to lose a portion of the tax
19 base. Okay. What does help the North Slope Borough if the
20 detachment goes through? The fact that government services
21 being provided now to this area are -- it appears to be an
22 impractical situation due to the geography and the fact that
23 it's an area that is used by a population outside of the
24 Borough. That -- from a government efficiency standpoint we
25 have found that it is not an efficient situation; the

1 detachment wouldn't be more efficient government, and so those
2 are on the saving side for the North Slope Borough. The fact
3 that the North Slope Borough wouldn't have to worry about this
4 development area and the coordination problems required,
5 since most of the people affected are outside of the Borough,
6 is a factor that argues that it would be in their interest.
7 And that's number 13, facilitating control. But I find that
8 the possible savings, the efficiencies, and the ease with
9 which control are -- well, the elimination of an area where
10 they have quite a coordination situation, we'll call it.....

11 (Tape change)

12 COMMISSIONER HANSON:they would lose a little bit
13 of their tax base and we cannot say definitely the savings
14 would outweigh that loss of tax base, for that is un -- in --
15 unconvulsive. So, I -- I have to find under that one that
16 we're looking just at Borough interests. I barely find -- I
17 can't find that it's in their interest; I don't know that
18 it's significantly against their interest. Jo.

19 CHAIRMAN BETTISWORTH: Jo Anderson.

20 COMMISSIONER ANDERSON: It's all -- I think he has well
21 said it. I have -- really have nothing to add, as much as I
22 would like to try to find something.

23 COMMISSIONER HANSON: Mr. Chairman, do you have comments?
24 We're open to discussion on that.....

25 CHAIRMAN BETTISWORTH: Yeah.

1 COMMISSIONER HANSON:it's very hard to try to
2 figure.....

3 CHAIRMAN BETTISWORTH: I -- I agree completely with the
4 factors that you have identified. The -- the problem that
5 really is -- factor number 11, the issue that the people there
6 are really -- have exhibited their disapproval of this action
7 through both a vote and through a petition and through all
8 our public testimony and really is very strong, but I guess
9 my comment is is that's exactly where the Local Boundary
10 Commission -- there's a need for the Local Boundary
11 Commission. And on the side of the finances, my -- I guess
12 while it looks like it could be a negative, that's really
13 uncertain at this time, they'd agree to what the negative
14 may be.

15 COMMISSIONER HANSON: Uh-huh.

16 CHAIRMAN BETTISWORTH: And, in fact, it could be a
17 positive. On factor 13 -- well, let me make sure -- your
18 negative areas are really 7 and 11, right?

19 COMMISSIONER HANSON: Yes. Primarily 7 and 11, and then
20 I -- there's an attempt -- those are balanced to some extent
21 by the efficiencies, the practicality question, which are
22 2 and 6, and number 13 that right now it isn't necessarily
23 the easiest situation for the North Slope Borough to deal
24 with the fact that the main users, a majority of the users,
25 are outside the Borough, as far as Kodiak.

1 CHAIRMAN BETTISWORTH: I guess I agree with those com-
2 ments. So, then, the way the summary comes down is is that
3 it's a -- it's not in the interest of the North Slope
4 Borough clearly -- barely not in the interest of the North
5 Slope Borough.

6 COMMISSIONER HANSON: In other words, we -- I'd like to
7 make one more comment. I think there's -- I don't know what
8 metaphor to use. Maybe a -- it's almost like this is not a
9 real significant -- I mean, when you get down to the cold,
10 hard facts, this is not a significant loss to the North
11 Slope Borough if this detachment goes through. I -- I don't
12 like using violent metaphors, but it's sort of like the
13 difference between a flesh wound and.....

14 CHAIRMAN BETTISWORTH: Decapitation?

15 COMMISSIONER HANSON: Something like that. This is
16 barely a flesh wound. And -- but I -- the way the standard
17 is stated is if in the determination of the Commission
18 detachments would be in the best interest of the State, the
19 territory to be detached, and the Borough to be affected.
20 So, I can't find that it's in their best interest. It leads
21 me to want to talk about something that was brought up in
22 both our Staff report and certain hearings, and that has to
23 do with how we deal with these best interest considerations
24 and whether -- I think we have some overriding considerations
25 here, and I'd like to ask our attorney about the approach of

1 looking at the collective.....

2 CHAIRMAN BETTISWORTH: Okay.

3 COMMISSIONER HANSON:as well.

4 SPECIAL COUNSEL CONDON: Well, the question is whether
5 you may make an overall best interest determination and what
6 the chances are pro -- what the arguments are pro and con in
7 that regard? The -- and -- and this is a legal question
8 which has been debated for some weeks, and you've had
9 opinions and briefs and various views have been expressed,
10 so you know that it's -- it's not a crystal clear question --
11 a question which has a crystal clear answer at this point in
12 time. And -- and the arguments that disfavor or that support
13 not taking an overall approach are a -- I -- I don't want to
14 call them all -- they're a literalist linguistic approach,
15 but which is a -- an approach that's often taken to resolve
16 problems like this because if you mean something and you say
17 something you say what you mean. On -- and you can read the
18 particular way these words are put together as to say that
19 you don't have the authority to go ahead and find -- rule
20 favorably on a petition for detachment unless all three
21 lights are lit. And you have a situation here where two
22 lights are lit and one isn't even about to blink, or it's
23 close to blinking but it's certainly not, and is that enough?
24 And -- and you have a -- a -- you exist as a Commission
25 because the -- the framers of our Constitution did not want

1 to have a situation where well intentioned but purely
2 parochial interests would determine the location of local
3 government boundaries, but that -- but that overall State
4 concerns not to predominate where possible in the determination
5 of those boundaries. Consequently, if it's possible to read
6 your regulations to accomplish that objective you should.
7 And so, consequently, I think that it is legally permissible
8 for you to take this regulation and interpret it to reach an
9 overall best interest determination. I say that not being
10 able to guarantee that if you do that you'll be sustained in
11 Court. I -- if I had to make the argument, I believe it is
12 the better argument, but that is my judgment, and it is a
13 judgment. And it requires to do that, though -- it requires
14 that you affirmatively make a determination that that's what
15 you want your regulation to mean. And -- and in -- so you
16 -- if you want to do that, you need to take that step, and
17 then you need to make the overall best interest determination
18 if that's your wish, and understand that you may very well
19 have bought yourself a lawsuit. But that's the way these
20 matters often have to be resolved.

21 CHAIRMAN BETTISWORTH: Are there comments on the part
22 of the Commission?

23 COMMISSION HANSON: Mr. Chairman, I -- we have heard a
24 lot of testimony on this question, and there is a -- some
25 good things that I think I put in the record, in fact, from

1 the document that Mr. Morehouse and Mr. Fisher prepared in
2 reviewing a part of that document, reviewed Boundary Com-
3 mission, responsibilities, and the reason for it. And I have
4 to say, I think that we are supposed to look at these as we
5 have so far. But I also feel that we are supposed to look
6 at it from a broader perspective -- in the overall interest.
7 I do not feel it was the intent of the framers of the Con-
8 stitution that set up the Boundary Commission with a local
9 entity having a veto power over Boundary Commission matters
10 and if something's clearly in the State interest. And I
11 think we have a situation here where if local entities were
12 to have a veto power, then there probably isn't that much
13 reason for us to be dealing as a Boundary Commission with
14 this kind of issue. You'd just find out what the local
15 entity wanted and that'd be that. So I think a larger State
16 interest is a larger picture. It's what's called for by
17 Statute. And so I would support that -- I guess I would move
18 that our interpretation of the detachment regulations include
19 a consideration of the three interests individually and
20 collectively before final determination is made on a detach-
21 ment question seriously.

22 CHAIRMAN BETTISWORTH: Is there a second?

23 CHAIRMAN ANDERSON: Yes, I'll second that.

24 CHAIRMAN BETTISWORTH: Okay. Is there any discussion
25 with respect to that motion? Motion is that we would find

1 that in review of the -- of the regulations that given the
2 constitutional mandate of the Commission that we would look
3 at the best interest determinations singularly, but also on
4 a collective or balancing situation. Is that.....

5 COMMISSIONER HANSON: Yeah, before making a.....

6 CHAIRMAN BETTISWORTH: Before making a best interest
7 determination.

8 COMMISSIONER HANSON: Yeah. I -- I'm interested, Mr.
9 Chairman and Ms. Anderson in your comments on this -- that
10 kind of approach.

11 CHAIRMAN BETTISWORTH: Well.....

12 COMMISSIONER ANDERSON: Yes, I would feel that we have
13 pretty well made a singularly.....

14 COMMISSIONER HANSON: But as far as using that kind of
15 approach.....

16 COMMISSIONER ANDERSON:best interest determination.
17 So the next step would be receive it collectively.

18 CHAIRMAN BETTISWORTH: Well, I guess I support the issue
19 that we do have a constitutional mandate and, again, it's the
20 issue of we are the people, we've been delegated the
21 responsibility to -- to weigh these various interests and
22 put them in State perspective to make a determination. And
23 to that extent, I would -- I think I agree with the motion.
24 Is there any other comments with that regard, on the
25 motion, the question? All those in favor signify by saying

1 aye.

2 COMMISSIONER HANSON: Aye.

3 COMMISSIONER ANDERSON: Aye.

4 CHAIRMAN BETTISWORTH: Aye. The motion passes
5 unanimously. The next task, then, before us is to make this
6 best interest determination. And I would -- actually, to.....

7 COMMISSIONER HANSON: Look at it collectively?

8 CHAIRMAN BETTISWORTH: Excuse me?

9 COMMISSIONER HANSON: Look at it collectively, I guess?

10 CHAIRMAN BETTISWORTH: Yes, I guess we need to look at
11 it collectively. And it's fairly simple. That before us we
12 have found that it is in the State interest, that it is in
13 the interest of the area to be detached, and that it is
14 mildly not in the interest of the Borough -- the North Slope
15 Borough. We've picked out summaries to each one of those
16 determinations.....

17 COMMISSIONER ANDERSON: Yes.

18 CHAIRMAN BETTISWORTH: Is there any other comment?

19 COMMISSIONER HANSON: Yes, Mr. Chairman, I'd like to make
20 a couple comments. One is that I -- I agree with your
21 comments. I think it's a situation where you have to back
22 away from it and just look at it. And this detachment
23 qualified by the formation of an efficient Borough that will
24 give us services for this area. It includes the people that
25 primarily use this area. It just makes a lot of sense and

1 seems to be a very wise thing to do as far as the government
2 makeup and the boundaries for local governments in Alaska. I
3 think it definitely promotes the formation of the NANA Bor-
4 ough, which is definitely in the interest of this State and
5 in the interest of that territory. Though there's been a
6 great deal of controversy about this, and a great deal of
7 opposition from people in the North Slope Borough, when you
8 look at it coldly, there just isn't that much negative impact
9 on the North Slope Borough. And I've tried real hard -- and
10 so -- like you said, it's -- we -- we find that it -- we can't
11 find that it is in the North Slope Borough's interest, but
12 it is just mildly not. I think there's common sense that
13 has to be looked at here. And that's a criteria I've always
14 tried to fall back on at the last, just say is the action
15 that we're proposing -- does it just make sense? And this
16 detachment does make sense. It does meet many of the factors
17 we were supposed to consider very strongly. I think it's
18 overwhelmingly in the State's interest and the -- and the
19 people of the State's interest. I think our considerations
20 have been very deliberate, very thorough, and that it's also
21 in the State's interest in making this determination that
22 it's showing that this Boundary Commission acts very
23 responsibly on any kind of detachment question, and it does
24 not take it lightly. So, I guess I would vote for detach-
25 ment and feel that the evidences overwhelmingly supports it

1 when you -- when you look at a total picture.

2 COMMISSIONER ANDERSON: I would like to comment also.
3 The Constitution set up -- is set up to promote the promotion
4 of local government, and this is -- this would be the first
5 new Borough in 17 years. It's.....

6 COMMISSIONER HANSON: Thirteen.

7 COMMISSIONER ANDERSON: Thirteen? Okay, I'm sorry. But
8 I would be in favor of voting for the -- to approve the
9 petition.

10 CHAIRMAN BETTISWORTH: In terms of proceedings here, we
11 -- we don't have a motion on the floor that deals with the
12 best interest determination.

13 COMMISSIONER HANSON: We -- we have a motion that deals
14 with acceptance of the petition.

15 CHAIRMAN BETTISWORTH: Right. Mr. Condon, do we need to
16 make a motion specifically about the best interest of the
17 Commission?

18 SPECIAL COUNSEL COUNSEL: I don't -- I don't believe
19 you do.

20 CHAIRMAN BETTISWORTH: Okay. Then we would go on next
21 to.....

22 COMMISSIONER HANSON: Mr. Chairman.

23 CHAIRMAN BETTISWORTH: Okay.

24 COMMISSIONER HANSON: Maybe you could summarize what
25 you feel the Commission's determination is regarding best

1 interest and make sure for the record that there is no ob-
2 jection to that (indiscernible -- simultaneous speech).

3 CHAIRMAN BETTISWORTH: Okay, I -- actually, I think that
4 what -- your statements were well taken and are on the
5 record, and if there are no objections, I think those should
6 be filed as -- along with Jo Anderson's as the opinion of the
7 -- of the Commission with respect to best interest. I think
8 it would be good if we had a motion.

9 COMMISSIONER HANSON: I -- is it -- would I -- would I
10 need to -- would we need to remand the motion on the floor
11 to have a motion on this issue. We could do that.....

12 CHAIRMAN BETTISWORTH: Well, this would -- yeah. I
13 think really what we need is maybe finding the issue of best
14 interest which is -- is really a.....

15 COMMISSIONER HANSON: Okay.

16 CHAIRMAN BETTISWORTH:where we don't need a motion.

17 COMMISSIONER HANSON: Well, no, let's -- let's go a
18 motion. But first I'd request that the -- I would like to
19 with -- without -- assuming the Chair agrees without any
20 objection, I would like to withdraw the motion on the floor
21 for acceptance of the petition.

22 CHAIRMAN BETTISWORTH: Well, couldn't this just be an
23 amendment to the main motion?

24 COMMISSIONER HANSON: Okay.

25 CHAIRMAN BETTISWORTH: But in the best interest

1 determination.

2 COMMISSIONER HANSON: Okay. Well, I'll amend the main
3 motion that the best interest determination will be stated in
4 favor of detachment in accordance with the comments made on
5 the record by Mr. Hanson and Jo Anderson as they summarized
6 the overview for the best interest determination in the
7 collective sense.

8 COMMISSIONER ANDERSON: I'll second that.

9 COMMISSIONER HANSON: Mr. Chairman, is that clear
10 enough that I'm referring to?

11 CHAIRMAN BETTISWORTH: I guess the problem is for the
12 people who are making the -- taking the record. Essentially
13 what we're finding in this is it's in our -- it's -- our
14 determination is it's in the best interest of the State, it's
15 in the best interest of the area to be detached, and from a
16 collective standpoint, then, it's our view that the best
17 interest determination as required by the regulations has
18 been met. Is that what.....

19 COMMISSIONER HANSON: Yes, perhaps you should restate
20 the amendment, then I'll -- without objection, I'll withdraw
21 the amendment, restate it that we as a Commission add an
22 amendment to our -- to -- the motion on the floor is that
23 we as a Commission find that this detachment is in the best
24 interest of the State, the best interest of the territory to
25 be detached, and from a collective over -- overall position,

1 it is definitely in the best interest of the -- of the people
2 of the State.

3 CHAIRMAN BETTISWORTH: And -- and meets the.....

4 COMMISSIONER HANSON: And meets the requirements of --
5 set forth for best interest determinations under 19AAC-10.230
6 for detachment of territory.

7 COMMISSIONER ANDERSON: Second.

8 CHAIRMAN BETTISWORTH: Okay. Any discussion? Call for
9 the question, and all those in favor signify by saying aye.

10 COMMISSIONER HANSON: Aye.

11 COMMISSIONER ANDERSON: Aye.

12 CHAIRMAN BETTISWORTH: Aye. The motion passes unani-
13 mously. We then have before us these other two issues:
14 guarantee of services and 11 assets and liabilities to be
15 divided. With respect to item number 10, the term is, if
16 pertinent. That means that if we found -- made a best
17 interest determination. But it also seems to reflect that
18 the petition itself has a qualifier in there that it only
19 takes effect -- the detachment only takes effect if the
20 Borough -- if the new NANA Borough is incorporated. That is
21 the guarantee of services, is that not right.....

22 SPECIAL COUNSEL CONDON: Yes.

23 CHAIRMAN BETTISWORTH:Mr. Condon?

24 SPECIAL COUNSEL CONDON: That's correct.

25 CHAIRMAN BETTISWORTH: Is there any comment on the part

1 of the Commissioners?

2 COMMISSIONER HANSON: I guess what we're hearing is,
3 then, legally that guarantee, or that conditional approval
4 provides for meeting the standard.

5 SPECIAL COUNSEL CONDON: That's correct.

6 COMMISSIONER HANSON: Okay. In reference, though, to
7 the concerns that have been raised, I'd also like on the
8 record that before this becomes a Borough, which means that
9 before the detachment can take place, we as a Commission
10 also have to review the Borough proceedings, and in that
11 proceeding we'll also be looking at the ability of this new
12 area to provide services. And I only say that as an explana-
13 tion of further assurance that provision of services is not
14 only provided for by conditioning approval on the establish-
15 ment of a Borough, but also on our review of a Borough
16 petition that will be before us in the future.

17 CHAIRMAN BETTISWORTH: Okay. That's for the record.

18 COMMISSIONER HANSON: Yes, that's for the record.

19 CHAIRMAN BETTISWORTH: Yeah, I think that's understood.
20 Any other comment on that issue? On 11, assets and liabili-
21 ties to be divided.

22 COMMISSIONER HANSON: Excuse me. Do we have to make a
23 finding on this?

24 CHAIRMAN BETTISWORTH: I think that in -- what I would --
25 what I would recommend then, without objection, that comment

1 and.....

2 COMMISSIONER HANSON: Stated.

3 CHAIRMAN BETTISWORTH:it's been stated in this part
4 of the record. It's our intention to take up this guarantee
5 of services at such time as we -- as we come to review the
6 NANA, or Northwest Artic Borough petition.

7 COMMISSIONER HANSON: But that our requirements are not
8 by the condition.....

9 CHAIRMAN BETTISWORTH: Right.

10 COMMISSIONER HANSON:of the Borough (indiscernible).

11 CHAIRMAN BETTISWORTH: Number 11, assets and liabilities
12 to be divided. I guess I'd like to -- I need some help
13 with this one because I'm -- maybe we should ask Staff to
14 give us some advice on assets and liabilities to be divided.

15 SPECIAL COUNSEL CONDON: You need to decide two things,
16 you need to decide whether there are any assets to be divided,
17 and you need to decide whether there are any liabilities to
18 be divided. And with respect to assets, you would normally
19 be talking about public facilities that are pertinent. Lia-
20 bilities, you'd be talking about the debts against those
21 facilities, or to what extent something's being taken away
22 which guarantees the payment of debt. And those are the
23 questions which you must address.

24 COMMISSIONER HANSON: Mr. Chairman, I will make some
25 preliminary, or starting, comments on this. Is that where

1 you'd like to proceed, or.....

2 CHAIRMAN BETTISWORTH: No, go ahead.

3 COMMISSIONER HANSON: Okay. On assets, there's quite a
4 bit in the record, but the Borough has constructed no par-
5 ticular structures in this area, has -- there is -- there are
6 no public Borough assets in the area, and I think it's on the
7 record. So, from the standpoint of defining of asset to be
8 something owned by the Borough, there are no assets to be
9 distributed. Is that -- is that your understanding?

10 CHAIRMAN BETTISWORTH: Yes.

11 COMMISSIONER HANSON: Okay. On liabilities, likewise
12 from the standpoint of direct liabilities to the Borough, it's
13 been clearly stated that the present bonds are not based upon
14 the property in this area, and there has not been direct
15 expenditures for facilities in the area for which there are
16 still outstanding liabilities that would be given to the
17 area. So, from the standpoint of liabilities meaning those
18 debts that the Borough has that are based upon the resources
19 directly of this area, or at least on structures in this
20 area, those do not exist. Is that -- is that your recollection
21 also?

22 CHAIRMAN BETTISWORTH: Yes.

23 COMMISSIONER ANDERSON: Yes, that's my -- my feelings
24 also as I remember.

25 COMMISSIONER HANSON: Okay. There are a couple of other

1 considerations, though, that have been brought up by the
2 North Slope Borough, and I guess it comes down to how you --
3 how far you define asset. Is -- they have brought up the
4 concern of loss tax base as loss of assets of the Borough,
5 and my reading of distribution of assets and liabilities --
6 I think I'd like to look at the language for just a minute
7 to deal with that, if we may have some time to -- if the
8 territory sought to be detached consists entirely of a city
9 having -- excuse me. I'll go to 19AAC-10.250(b). Is that
10 the appropriate site? "If the territory sought to be
11 detached consists entirely of territory not within a city
12 or consists of a city not having authority to provide
13 services currently provided by the Borough from which
14 detachment is sought, Commission shall determine the manner
15 in which the assets and the liabilities of the municipality
16 from which detachment is sought shall be distributed between
17 it and the State." I guess my reading of this leads --
18 would lead me -- if this hadn't have been brought to my
19 attention, I guess I wouldn't even have been considering
20 tax base. I would have been thinking of structures and
21 direct liabilities and assets. I'm interested in other
22 interpretations of this.

23 COMMISSIONER ANDERSON: Yeah, I'm interested, too.

24 CHAIRMAN BETTISWORTH: Commissioner Hanson.

25 COMMISSIONER HANSON: Should we ask Counsel for.....

1 CHAIRMAN BETTISWORTH: Advice and interpretation of this?

2 COMMISSIONER HANSON:his interpretation of that
3 section?

4 SPECIAL COUNSEL CONDON: When you're talking about assets,
5 I don't believe you're talking about tax base. When you're
6 talking about liabilities, you -- you are looking to -- to
7 debt and to the extent that there is a tax base here which --
8 had there -- if there were a tax base here upon which the
9 debts of the municipality from which you are -- local govern-
10 ment from which you were doing the detachment, you -- you'd
11 have to look and -- and see whether or not you wanted to make
12 some allocation of those liabilities. And so you need to
13 determine whether there is something here which has been used
14 to support the municipal debt of the North Slope Borough. If
15 you decide that there is, you need to divide some portion of
16 it off. If you decide that there is not, and that's some-
17 thing which you have discretion to do, and it's got to be
18 a reasonable determination, then you -- you -- the division
19 can be from zero to something to -- to whatever you think is
20 appropriate on the basis of the facts.

21 CHAIRMAN BETTISWORTH: Okay. If I were to comment,
22 the Petitioner and NANA Borough -- NANA region, and the
23 North Slope Borough all recognize that the current assessed
24 value of facilities in place at the Red Dog mine site is
25 somewheres in the order of \$600,000. That represents -- and

1 I'm not sure whether that's -- that's an assessment that the
2 Borough has made against the mine site, that that -- that has
3 been noted in those documents. That's the current value.
4 It's a very small value of the total assessed value of the
5 Borough. It seems, though, that we need to at least think
6 about -- some how or other we need to put that number into
7 the equation of things.

8 COMMISSIONER HANSON: In other words, you -- you
9 would interpret the loss of that tax base would be a -- I
10 guess where I have a hangup is that if I knew -- and it's not
11 in the record -- that, in fact, the North Slope Borough hadn't
12 submitted a tax bill to Cominco/NANA, or NANA/Cominco rele-
13 vant to that six hundred and seven -- \$600,000 asset or
14 assessed value, we'd have a handle on where we might want to
15 go.

16 CHAIRMAN BETTISWORTH: Well, that's my understanding,
17 but I -- I mean, I don't look on that as a -- that isn't a
18 public asset. I mean, that isn't like a municipal.....

19 COMMISSIONER HANSON: No, but to the degree that it
20 represents an income, a revenue source, for the North Slope
21 Borough currently, that -- is it -- is that the kind of --
22 is that the kind of a thing that we need to be looking at?
23 I guess -- Wilson, am I off track, or.....

24 SPECIAL COUNSEL CONDON: Well, it's one of the things
25 that you need to be looking at, yes. I mean, you -- you

1 have a wide range of discretion here. You can -- you can.....

2 (Tape change)

3 SPECIAL COUNSEL CONDON:debt which has been incurred
4 by the North Slope Borough as debt which has been incurred as
5 a result of the debt holders looking to all the property in
6 the Borough, that the Borough has been providing municipal
7 services to the entire area, and that you really ought to use
8 a fairly mechanical application of allocating that debt out
9 to the dollars of tax base that are there. You can go from
10 that extreme to the other end of the continuum of -- by -- by
11 looking at the debt having been incurred on a regional basis,
12 or you can say that -- that the debt holders here have
13 really been willing to provide the debts, buy the bonds of
14 the North Slope Borough based on the petroleum assets that
15 are -- that are available to pay local property taxes. And
16 I, frankly, am not familiar with the record in this regard in
17 this proceeding, so I'm certainly not in a position to -- to
18 make a recommendation on the exercise of that discretion.

19 CHAIRMAN BETTISWORTH: I guess from my standpoint,
20 then, I -- my recollection of the record indicates that the
21 potential assets and current assets at the Red Dog mine site
22 have not been a part of the Borough's.....

23 COMMISSIONER HANSON: Bond.

24 CHAIRMAN BETTISWORTH:bond indebtedness capability
25 To that -- bonded indebtedness. I guess to that extent, then

1 I guess we would find that there would be no -- that there
2 are no assets and there's, necessarily, then, there's no need
3 to distribute any -- any liability.

4 COMMISSIONER HANSON: Mr. Chairman, I -- I would agree
5 with that interpretation partially because the exercise we've
6 just gone through -- well, first of all, I think that's more
7 the usual approach of assets and liabilities. I -- and before
8 the North Slope Borough brought this up, I certainly wouldn't
9 have considered compensation for a very small portion of
10 their tax base being detached when there were no other assets
11 and liabilities at all. So I guess I can't call it that.
12 Second, the tax base issue was really one thing we put great
13 weight on in considering whether or not the best interests
14 were served with this detachment. And I -- I think that's
15 the appropriate place for tax base questions to be considered.

16 COMMISSIONER ANDERSON: I would agree with Mr. Bettis-
17 worth completely on your comments.

18 CHAIRMAN BETTISWORTH: Okay, then, on this issue then,
19 it's the finding of the Commission that there are no assets
20 in place in the detached area and no liabilities against
21 those assets to be divided. Is there any comment on that
22 issue?

23 COMMISSIONER HANSON: No comment.

24 CHAIRMAN BETTISWORTH: Okay.

25 COMMISSIONER HANSON: I agree.

1 CHAIRMAN BETTISWORTH: We have a motion on the floor
2 before us with respect to the approval of the petition. I
3 guess one comment I'd like to make is that there was a question
4 with respect to the boundary, and it's deleted in the technical
5 description of the boundary and disclosure. It's my under-
6 standing that that problem has been corrected. I would also
7 like to say that with respect to any of the facts associated
8 with this, I mean specific, pertinent dates, times, that
9 kind of thing, it's the Commission's opinion that those kinds
10 of problems will be taken care of by Staff at the completion
11 of the formulation of this -- this issue. That basically
12 what we're -- we're deciding on are other issues associated
13 with the petition. So, there's a motion on the floor before
14 us to approve the petition.

15 COMMISSIONER HANSON: Mr. Chairman.

16 CHAIRMAN BETTISWORTH: Mr. Hanson.

17 COMMISSIONER HANSON: If I could make one comment.
18 Should we ask Counsel -- I'd like to ask him for our pro-
19 cedures from this point before we -- if there's anything else
20 that should be considered before we vote on this motion re-
21 garding procedures or anything like that.

22 SPECIAL COUNSEL CONDON: I'm not aware of any.

23 COMMISSIONER HANSON: Okay.

24 CHAIRMAN BETTISWORTH: Any comments on the part of the
25 Commission? Okay, call for the question. I would like to

1 have a voice vote on this. Mr. Hanson.

2 COMMISSIONER HANSON: Aye.

3 CHAIRMAN BETTISWORTH: Mrs. Anderson.

4 COMMISSIONER ANDERSON: Aye.

5 CHAIRMAN BETTISWORTH: I vote aye. The motion passes
6 unanimately. With that, then, we'll take a brief recess and
7 come back to take up other matters.

8 (Off the record)

9 CHAIRMAN BETTISWORTH: Okay, we'll reconvene the
10 decisional session. Counsel has requested that we take --
11 that they have until 3 o'clock to draft up the statement of
12 decision. We have other statements of decision to look at.
13 I would recommend that we recess for lunch until 2:30, at
14 which time we will then take up statements -- the other
15 statements of decision, and then proceed on to the statement
16 of decision on North Slope at 3 o'clock. With that we will
17 recess until 2:30.

18 (Off the record)

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10 CHAIRMAN BETTISWORTH: We'll reconvene. Meeting of the

11 Local Boundary Commission, January 19th, 1986. We have before

12 us a statement of decision in response to petition for local

13 boundary government -- local government boundary change

14 detach from North Slope Borough territory within and adjacent

15 to the NANA region. You've had a chance to take a look at

16 this document. Is there any comments on the part of the

17 Commissioners?

18 COMMISSIONER HANSON: Mr. Chairman, I guess I'm still

19 completing.....

20 COMMISSIONER ANDERSON: I haven't finished this yet.

21 CHAIRMAN BETTISWORTH: You haven't finished?

22 COMMISSIONER ANDERSON: No.

23 CHAIRMAN BETTISWORTH: Well, I guess we'll go back into

24 recess.

25 (Off the record)

1 CHAIRMAN BETTISWORTH: Okay. We'll get back on the
2 record here. We have before us a statement of decision on
3 the North Slope Borough detachment. Is there any comments on
4 the part of the Commissioners with respect to this statement
5 of decision?

6 COMMISSIONER HANSON: Mr. Chairman, I think it's a well
7 done statement of decision. My only comment would be on
8 page 14, and I'd ask Counsel if there's a technicality that
9 needs to be clarified or not. It's under distributions of
10 assets and liabilities. The -- the last sentence says, "The
11 Commission determines that no assets and no liabilities shall
12 be distributed to the State pursuant to 19AAC-10.250(b)."
13 Is it necessary to also say the -- the Borough in this case
14 or not?

15 SPECIAL COUNSEL CONDON: I don't think so.....

16 COMMISSIONER HANSON: Okay.

17 SPECIAL COUNSEL CONDON:because of the -- the regs
18 provides for distributing to the State, and I'm not even sure
19 that you could -- I think it is the North Slope Borough.

20 COMMISSIONER HANSON: Okay.

21 SPECIAL COUNSEL CONDON: So, we're -- you're -- we're
22 talking about assets and liabilities that now belong to the
23 North Slope Borough, both of them. And the question is
24 whether any of them pass to the State and collaterally to
25 the -- derivatively to the proposed Northwest Artic Borough,

1 and your determination is that none do. They all stay where
2 they are with (indiscernible) the North Slope Borough. so,
3 it's fine.

4 COMMISSIONER HANSON: Okay. Thank you.

5 CHAIRMAN BETTISWORTH: Any other comments?

6 COMMISSIONER ANDERSON: As Mr. Hanson said, I think it's
7 been very well done.

8 SPECIAL COUNSEL CONDON: Thank you.

9 CHAIRMAN BETTISWORTH: I guess -- let's see, what did
10 we do before? I guess we had -- we had a motion, or -- I
11 guess without objection, then, we'll accept this document as
12 complete and we'll sign off on it. I guess on my part, I'd
13 like to thank the Staff, and when I say Staff, I want to start
14 over here with Gene King (ph) and Dan Barkworst (ph) and the
15 rest of the people from CRNA that's really helped us,
16 particularly Gene (ph) on -- on this project -- Gene (ph)
17 and Dan and the rest of the people with CRNA for all their
18 work over the whole year. It's been not an easy year. And
19 then I'd also then like to thank Wilson and your staff for a
20 lot of hard work on this specific issue. I think that this
21 is, again, well done, and I feel real comfortable that we're
22 going to -- we've got a document that we can -- we can all
23 defend if we have to. And I'd like to thank the Commissioners.
24 Guys. It was a tough one, but we got through it, too. I
25 guess with that, I'm -- let's sign this -- one of these and

1 we'll adjourn.

2 COMMISSIONER ANDERSON: May I please second your past
3 words to the Staff and to Wilson and his staff.

4 SPECIAL COUNSEL CONDON: Well, I'd just like to -- since
5 you weren't here, I'd say it was really fun working with you.
6 You folks exemplify the best in democratic government. I
7 mean, I got paid to come and do all this work, and you
8 people have been doing this on your own time, and it's really
9 quite admirable. I'd -- I'd also just like to acknowledge
10 Bob Stoller, who's an attorney in Anchorage who's been working
11 with me. He's not a member of my firm but -- on his own, but
12 somebody who I bring in to help me when I work on projects
13 like this, and legal assistant Peter Moore at the back of the
14 room who was also here and they -- since they worked hard,
15 I'd like to recognize them. They had a lot to do with this.
16 So, thanks.

17 COMMISSIONER HANSON: Mr. Chairman, I'd just like to
18 second all of our thank you's, and thank you as Chairman for
19 chairing a very difficult series of meetings and hearings.
20 It was very well done.

21 CHAIRMAN BETTISWORTH: Thank you, Mr. Hanson. I guess
22 with that, we're adjourned.

23 *** END OF PROCEEDINGS ***

24

25