

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672

5193 SCRA SB 18 - SB 50

765

FEB 6 1987

February 3, 1987

Senator Arliss Sturgulewski
Senator Mike Szymanski
P.O. Box V
Juneau, AK 99811

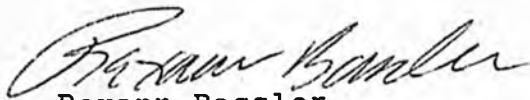
Dear Senators:

I have enclosed a copy of a letter I wrote to Ms. Judy Brady, Commissioner of Natural Resources. It is my sincere desire that the Potter Marsh bill be passed in order to make this area an official wildlife refuge.

The nonsense that I read about Ms. Brady, is infuriating. There is no need for mining in the area and likely is nothing there to mine. We have got to preserve more of these areas, and the Potter's Marsh area is a very good one. It is accessible to the general public and to think of invading an area the birds have become accustomed to using is simply ridiculous. Not only is there no mining in the boundary area, but the people of Anchorage would never stand for any such activity if it were proposed in the future.

I hope that you will do your best to get this long overdue bill passed and preserve this natural habitat.

Sincerely,


Rexann Bassler

February 3, 1987

Judy Brady
Commissioner of Natural Resources
400 Willoughby Avenue
Juneau, Alaska 99801

Dear Ms. Brady:

Today I read in the Anchorage Daily News an article regarding the Potter Marsh wildlife refuge area. It is my strong feeling that the Potter Marsh area should be made an official wildlife refuge. There is such strong support for it from the people, whom you serve, and other legislators. It would seem, from this article, that you are the only one who has reservations about this because it would close the area to mining. Of course it would, that's the whole point! We have got to start perserving areas where the natural habitat can remain undisturbed or we will soon be cut of natural habitats. In addition, I am quite sure that no one in the Anchorage area, especially the hillside residents, would ever want any type of mining operations going on in that area.

You were appointed, not elected, commissioner of natural resources by Governor Cowper, but you as well as Governor Cowper serve the people, not each other. This Potter's Marsh debate has been going on long enough and if you are the only one holding it up because you think we should leave our options open (to future mining possibilities), then you should be fired!

Since it is obvious that the people and many legislators think this area should be made an official wildlife area, you have no right to block the bill. In fact, you should whole heartedly support the bill.

I have enclosed a copy of the Daily News article with some highlights. Please consider the voice of the people and the animals and waterfowl that use this marsh area. It is very important to all of us.

Sincerely,

Rexann Bassler

cc: Senator A. Sturgulewski
Senator M. Szymanski

Original sponsors: Szymanski, Sturgulewski,
Josephson and Kerttula

1 IN THE SENATE

BY THE COMMUNITY AND REGIONAL
AFFAIRS COMMITTEE

2 CS FOR SENATE BILL NO. 18 (C&RA) *CHANGES ARE*
3 IN THE LEGISLATURE OF THE STATE OF ALASKA *MARKED IN MARGIN*
4 FIFTEENTH LEGISLATURE - FIRST SESSION *AND UNDERLINED*

5 A BILL

6 For an Act entitled: "An Act creating the Anchorage Coastal Wildlife
7 Refuge and renaming the Potter Point State Game
8 Refuge as the Anchorage Coastal Wildlife Refuge."

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

10 * Section 1. AS 16.20 is amended by adding a new section to read:

11 Sec. 16.20.031. ANCHORAGE COASTAL WILDLIFE REFUGE. (a) The
12 following described state-owned land and water is established as the
13 Anchorage Coastal Wildlife Refuge and shall be managed as a state game
14 refuge for the protection of waterfowl, shorebirds, salmon, and other
15 fish and wildlife species, and their habitat and for the use and
16 enjoyment of the people of the state:

17 (1) Township 13 North, Range 4 West, Seward Meridian

18 Section 20: SE 1/4 seaward of the 20 foot elevation
19 contour

20 SE 1/4 NE 1/4 seaward of the 20 foot elevation con-
21 tour

22 Section 29: E 1/2 seaward of the 20 foot elevation
23 contour

24 SW 1/4 seaward of the 20 foot elevation contour

25 Section 30: SE 1/4 SE 1/4

26 Section 31: All seaward of the 20 foot elevation
27 contour except NW 1/4 NW 1/4

28 Section 32: All seaward of the 20 foot elevation
29 contour

- 1 (2) Township 13 North, Range 5 West, Seward Meridian
2 Section 36: S 1/2
3 S. 1/2 N 1/2
- 4 (3) Township 12 North, Range 4 West, Seward Meridian
5 Sections 6 - 9: Seaward of the 20 foot elevation
6 contour
7 Section 15: N 1/2 seaward of the 20 foot elevation
8 contour
9 SW 1/4 NE 1/4 seaward of the 20 foot elevation
10 contour
11 Government Lot 5 and the remainder of the W 1/2 SE
12 1/4, all
13 SW 1/4
14 Section 16: Seaward of the 20 foot elevation contour
15 Sections 17 - 22
16 Section 23: Government Lot 1 and the remainder of the
17 SW 1/4, all seaward of the 20 foot elevation contour
18 Government Lot 2 and the remainder of the S 1/2 NW
19 1/4, all seaward of the 20 foot elevation contour
20 Government Lots 3 and 4, and the remainder of the SE
21 1/4, all seaward of the 20 foot elevation contour
22 Section 24: Tract A, Shorecrest Subdivision (Plat No.
23 81-68, Anchorage Recording District)
24 Section 25: Government Lots 1 and 2, and the remainder
25 of the W 1/2, all
26 Tract A, Johns Park Estates, and the remainder of the
27 NE 1/4, excluding Skyway Park Estates, Addition No. 1
28 all seaward of the 20 foot elevation contour Govern-
29 ment Lots 3 and 4, and the remainder of the SE 1/4,

1 all

2 Sections 26 - 36

3 (4) Township 12 North, Range 5 West, Seward Meridian

4 Sections 1 - 2

5 Sections 11 - 14

6 Sections 23 - 26

7 Sections 35 - 36

8 (5) Township 12 North, Range 3 West, Seward Meridian

9 Section 29: That portion of the SW 1/4 southwesterly
10 of the Alaska Railroad right-of-way and southerly of
11 Oceanview Subdivision, Addition No. 6

12 Section 30: That portion of Tract A, Johns Park
13 Estates, seaward of the 20 foot elevation contour
14 Government Lot 2 and that portion of the SE 1/4 NW
15 1/4 southwesterly of Oceanview West Subdivision,
16 Addition No. 1

17 Government Lots 3 and 4 and the remainder of the SW
18 1/4, all

19 That portion of the SW 1/4 NE 1/4 and the SE 1/4
20 southwesterly of Oceanview Subdivision, Addition No.
21 4 and Addition No. 6

22 Section 31

23 Section 32: All land southwesterly of the Alaska
24 Railroad right-of-way

25 Section 33: All land westerly of the Alaska Railroad
26 right-of-way

27 (6) Township 11 North, Range 3 West, Seward Meridian

28 Section 3: Government Lot 5

29 Section 4: That portion southwesterly of the Old

1 Seward Highway right-of-way and The Landings
2 Subdivision which is northeasterly of the New Seward
3 Highway right-of-way

4 That portion southwesterly of the Alaska Railroad
5 right-of-way

6 Sections 5 - 8

7 Section 9: That portion southwesterly of the Alaska
8 Railroad right-of-way

9 That portion northeasterly of the New Seward Highway
10 right-of-way

11 Section 10: That portion westerly of the Old Seward
12 Highway right-of-way which is northeasterly of
13 the New Seward Highway right-of-way

14 That portion southwesterly of the Alaska Railroad
15 right-of-way

16 (7) Township 11 North, Range 4 West, Seward Meridian

17 Sections 1 - 4

18 Sections 10 - 12

19 (b) Except as provided in (d) of this section, the Department of
20 Fish and Game and the Department of Natural Resources shall exercise
21 their respective authorities over the Anchorage Coastal Wildlife
22 Refuge consistent with a management plan prepared by the Department of
23 Fish and Game ~~under AS 16.20.040 - 16.20.000~~ in consultation with the
24 Department of Natural Resources.

25 (c) A public right-of-way for surface transportation and a
26 utility corridor are created across state-owned land and water within
27 the Anchorage Coastal Wildlife Refuge between the Anchorage mainland
28 and Fire Island. The management plan prepared under (b) of this
29 section shall identify the actual location on the land and water of

1 the right-of-way and of the utility corridor between the Anchorage
2 mainland and Fire Island.

3 (d) Land owned by the Municipality of Anchorage that lies within
4 the boundary of the Anchorage Coastal Wildlife Refuge described in (a)
5 of this section may be included in the Anchorage Coastal Wildlife
6 Refuge. An agreement between the Department of Fish and Game and the
7 Municipality of Anchorage for the management of the land within the
8 Anchorage Coastal Wildlife Refuge that is owned by the Municipality of
9 Anchorage shall be approved by the Municipality of Anchorage and by
10 the Department of Fish and Game.

11 (e) The state or the Municipality of Anchorage may not acquire
12 privately owned land within the Anchorage Coastal Wildlife Refuge
13 described in (a) of this section by eminent domain for inclusion
14 within the Anchorage Coastal Wildlife Refuge. The Department of Fish
15 and Game or the Municipality of Anchorage may acquire privately owned
16 land within the Anchorage Coastal Wildlife Refuge by purchase, ex-
17 change, or otherwise, except by eminent domain.

18 (f) The land and water areas of the Anchorage Coastal Wildlife
19 Refuge are closed to mineral entry under AS 38.05.185 - 38.05.275.

20 * Sec. 2. The initial management plan prepared under AS 16.20.031(b) as
21 enacted in sec. 1 of this Act shall be completed within ~~two~~^{three} years after the
22 effective date of this Act.

23 * Sec. 3. AS 16.20.030(b) is repealed.

24 x Sec. 4. This Act takes effect immediately under AS 01.10.070(c)
25
26
27
28
29

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

400 WILLOUGHBY AVE.
JUNEAU, ALASKA 99801
PHONE: (907) 465-2400

1/6/87 3/5/87

February 4, 1987

The Honorable Arliss Sturgulewski, Chair
Senate Community and Regional Affairs Committee
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Senator Sturgulewski:

Subject: I am writing to reiterate my support for establishing the Anchorage Coastal Wildlife Refuge as described in SB 18.

Recommendation: I understand that enactment of this bill may be in jeopardy because of my request that mineral closure of the refuge extension not be included in the statute, but instead be the product of the refuge planning process. As I made clear from the beginning, if it appears that my request jeopardizes SB 18 in any way, feel free to approve the bill as written.

Sincerely,

CJW for

Judith M. Brady
Commissioner

cc: Committee Members
Governor's Legislative Liaison



STATE OF ALASKA
OFFICE OF THE GOVERNOR

BILL ANALYSIS

DEPARTMENT Fish and Game	DIVISION Habitat	BILL NUMBER CS SB18 (L+R)	SPONSOR Szymanski & Sturgulewski
DEPARTMENT POSITION Support			
PREPARED BY Habitat Division <i>Wes Smith</i>	DATE 2/5/87	COMMISSIONER'S SIGNATURE <i>Frank B. ...</i>	DATE 2.5.87

SUMMARY

OTHER AGENCIES AFFECTED BY BILL Department of Natural Resources	CONSTITUENT GROUP(S) AFFECTED BY BILL Anchorage Residents
ORGANIZATIONAL SUPPORT FOR BILL Municipality of Anchorage Department of Natural Resources Potter Marsh Task Force (Interagency)	ORGANIZATIONAL OPPOSITION TO BILL None Known

FISCAL IMPACT: NONE FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT

Establishment of the Anchorage Coastal Wildlife Refuge will protect important waterfowl and shorebird habitat in the Anchorage area. It will provide for public use and enjoyment of the refuge. The bill will clarify and enhance the existing Potter Point State Game Refuge.

ANALYSIS OF BILL/PROGRAM EFFECTS

See SB 18 Bill Analysis 1/23/87

Amendments to the bill will:

1. Clarify that the act will rename the existing Potter Point State Game Refuge.
2. Clarify that Department of Fish and Game will prepare a management plan in consultation with the Department of Natural Resources.
3. Provide for a public right-of-way for surface transportation and a utility corridor between Fire Island and the Mainland.
4. Direct that the management plan be completed within three years after the effective date of the act.

AMENDMENTS PROPOSED

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____

Bill Version: CS SB18 (2A)

Publish Date: _____

Revision Date: _____

Agency Affected: ADF&G

Title: Anchorage Coastal Wildlife
Refuge

BRU: _____

Sponsor: Szymanski Sturqulewski

Components: _____

Requestor: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES		0				
TRAVEL		0				
CONTRACTUAL		0				
SUPPLIES		0				
EQUIPMENT		0				
LAND & STRUCTURES		0				
GRANTS, CLAIMS		0				
MISCELLANEOUS		0				
TOTAL OPERATING		0				

CAPITAL		0				
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REVENUE		0				
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FUNDING: (Thousands of Dollars)

GENERAL FUND		0				
FEDERAL FUNDS						
OTHER						
TOTAL		0				

POSITIONS:

FULL-TIME		0				
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Bruce Baker, Acting Director *(New title for Bruce Baker)*

Phone: 465-4105

Division: Habitat

Date: 2/5/87

Approved by Commissioner: *Oliver Peterson*

Date: 2/5/87

Agency: Fish and Game

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary

1 IN THE SENATE

BY SZYMANSKI, STURGULEWSKI
JOSEPHSON AND KERTTULA

2

SENATE BILL NO. 18

3

. IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act creating the Anchorage Coastal Wildlife
7 Refuge."

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

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14 fish and wildlife species, and their habitat and for the use and
15 enjoyment of the people of the state:

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21 Section 29: E 1/2 seaward of the 20 foot elevation
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23 SW 1/4 seaward of the 20 foot elevation contour
24 Section 30: SE 1/4 SE 1/4
25 Section 31: All seaward of the 20 foot elevation
26 contour except NW 1/4 NW 1/4
27 Section 32: All seaward of the 20 foot elevation
28 contour

29 (2) Township 13 North, Range 5 West, Seward Meridian

SB0018A

P. 4 23-26 - surface area of the island
P. 5 - lines 13 + 14 - cleared to municipal contour
05 - requirement of law. If 3 years
no forest note

SB 18

1 Section 36: S 1/2
2 S 1/2 N 1/2
3 (3) Township 12 North, Range 4 West, Seward Meridian
4 Sections 6 - 9: Seaward of the 20 foot elevation
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20 1/4, all seaward of the 20 foot elevation contour
21 Section 24: Tract A, Shorecrest Subdivision (Plat No.
22 81-68, Anchorage Recording District)
23 Section 25: Government Lots 1 and 2, and the remainder
24 of the W 1/2, all
25 Tract A, Johns Park Estates, and the remainder of the
26 NE 1/4, excluding Skyway Park Estates, Addition No. 1
27 all seaward of the 20 foot elevation contour Govern-
28 ment Lots 3 and 4, and the remainder of the SE 1/4,
29 all

1 Sections 26 - 36
2 (4) Township 12 North, Range 5 West, Seward Meridian
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5 Sections 23 - 26
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7 (5) Township 12 North, Range 3 West, Seward Meridian
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9 of the Alaska Railroad right-of-way and southerly of
10 Oceanview Subdivision, Addition No. 6
11 Section 30: That portion of Tract A, Johns Park
12 Estates, seaward of the 20 foot elevation contour
13 Government Lot 2 and that portion of the SE 1/4 NW
14 1/4 southwesterly of Oceanview West Subdivision,
15 Addition No. 1
16 Government Lots 3 and 4 and the remainder of the SW
17 1/4, all
18 That portion of the SW 1/4 NE 1/4 and the SE 1/4
19 southwesterly of Oceanview Subdivision, Addition No.
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1 Subdivision which is northeasterly of the New Seward
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5 Sections 5 - 8

6 Section 9: That portion southwesterly of the Alaska
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11 Highway right-of-way which is northeasterly of
12 the New Seward Highway right-of-way

13 That portion southwesterly of the Alaska Railroad
14 right-of-way

15 (7) Township 11 North, Range 4 West, Seward Meridian

16 Sections 1 - 4

17 Sections 10 - 12

18 (b) Except as provided in (d) of this section, the Department of
19 Fish and Game and the Department of Natural Resources shall exercise
20 their respective authorities over the Anchorage Coastal Wildlife
21 Refuge consistent with a management plan prepared by the Department of
22 Fish and Game under AS 16.20.040 - 16.20.060.

23 (c) A management plan prepared under AS 16.20.040 - 16.20.060
24 shall assure continued surface access to Fire Island and provide an
25 access and utilities corridor between Fire Island and the Anchorage
26 mainland.

27 (d) Land owned by the Municipality of Anchorage that lies within
28 the boundary of the Anchorage Coastal Wildlife Refuge described in (a)
29 of this section may be included in the Anchorage Coastal Wildlife

1 Refuge. An agreement between the Department of Fish and Game and the
2 Municipality of Anchorage for the management of the land within the
3 Anchorage Coastal Wildlife Refuge that is owned by the Municipality of
4 Anchorage shall be approved by the Municipality of Anchorage and by
5 the Department of Fish and Game.

6 (e) The state or the Municipality of Anchorage may not acquire
7 privately owned land within the Anchorage Coastal Wildlife Refuge
8 described in (a) of this section by eminent domain for inclusion
9 within the Anchorage Coastal Wildlife Refuge. The Department of Fish
10 and Game or the Municipality of Anchorage may acquire privately owned
11 land within the Anchorage Coastal Wildlife Refuge by purchase, ex-
12 change, or otherwise except by eminent domain.

13 (f) The land and water areas of the Anchorage Coastal Wildlife
14 Refuge are closed to mineral entry under AS 38.05.185 - 38.05.275.

15 * Sec. 2. The initial management plan prepared under AS 16.20.031(b) as
16 enacted in sec. 1 of this Act shall be completed within one year of the
17 effective date of this Act.

18 * Sec. 3. AS 16.20.030(b) is repealed.



OFFICIAL BUSINESS

Alaska State Legislature
Senate

POUCH V
CAPITOL BUILDING
JUNEAU, ALASKA 99811

SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

COMMITTEE SCHEDULE

TUESDAY, FEBRUARY 3, 1987

Presentation by the Department of Community and Regional
Affairs

THURSDAY, FEBRUARY 5, 1987

SB 52 - Definition of "Rural" for Housing Program

All meetings in the Butrovich Room. 3:30 TO 5 P.M.

*Kie has
copy*

January 28, 1987

COOK INLET REGION, INC.

Senator Arliss Sturgulewski, Chairman
Community and Regional Affairs Committee
Pouch V, State Capitol
Juneau, Alaska 99811

Dear Senator Sturgulewski:

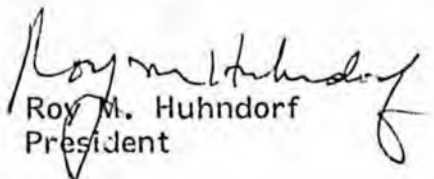
Cook Inlet Region, Inc. (CIRI) respectfully requests the Senate Committee on Community & Regional affairs to amend Paragraph (c) of proposed legislation for the Anchorage Coastal Wildlife Refuge (SB 18). Changes are necessary due to ambiguities and uncertainties regarding access to Fire Island which is owned by CIRI and the federal government. Portions of the island are currently being used by the Federal Aviation Administration and U.S. Coast Guard, and the northern portion of the island has been identified by the Port of Anchorage as a likely site for necessary future port expansion.

Specifically, the existing legislation does not adequately address the need to reserve clearly defined access and utility easements. In place of existing language, CIRI requests that Paragraph (c) be amended to include language contained in the attached March 6, 1985 recommendation to then Representative Mike Szymanski. Please note that the language was jointly supported by the Municipality of Anchorage and the Port of Anchorage.

We strongly urge that the Committee support the recommended amendment. Given the need to attract new businesses and create new underpinnings for Alaska's economy, clearer provisions for access to Fire Island -- or any other lands which can serve economic development goals, without substantial environmental costs -- are in every Alaskan's best interests.

Sincerely,

COOK INLET REGION, INC.


Roy M. Huhndorf
President

cc: Senator Tim Kelly, Vice-Chairman
Senator Rick Halford
Senator Fred Zharoff
Senator Mike Szymanski

RMH:ah
23:762

Municipality
of
Anchorage



POUCH 6-650
ANCHORAGE, ALASKA 99502-0650
(907) 264-4317

TONY KNOWLES,
MAYOR

COOK INLET REGION, INC.

DEPARTMENT OF PROPERTY & FACILITY MANAGEMENT

MAR 7 1985

HAND-DELIVERED

Land Department

March 6, 1985

Representative Mike Szymanski
State Capitol, Room 517
Pouch V
Juneau, AK 99811

RE: HB 186--Anchorage Coastal Wildlife Refuge

Dear Representative Szymanski:

In cooperation with the Municipality, CIRI land managers Don Marx and Steve Planchon have drafted the attached Fire Island access language which refines a similar provision in paragraph (c) of Senator Vic Fischer's CSSSSB 19 (C&RA). The CIRI land managers and counsel find this language preferable to the vaguer language incorporated in the committee substitute, however, CIRI has not yet committed to support (or, not oppose) the refuge legislation even if this access provision is included.

Chip Dennerlein and I have reviewed the new access language on behalf of the Municipality and find it acceptable. Tyler Jones, the Port Director, has advised that CIRI's concern with protecting access to Fire Island is a matter of similar concern to the Port of Anchorage. This new access amendment also has been read to and discussed with Tom Hawkins of the Department of Natural Resources, and he had no problem with it. The amendment has been mentioned to several people at the Department of Fish and Game including Special Assistant Roland Shanks and Bruce Baker of the Habitat Division, but they have not yet seen the specific language.

Please call me at 264-4807 to discuss this recommended Fire Island access amendment or other provisions of HB 186.

Sincerely,

Peter Scholes
Property Management Officer

cc: Senator Vic Fischer
Steve Planchon, CIRI
Debra Clausen, Habitat Division, Department of Fish and Game
Chip Dennerlein, Office of Intergovernmental Affairs, MOA
Tyler Jones, Port of Anchorage

(c) Notwithstanding any other provision of State law, there are hereby reserved and created on, within and across State lands within the Anchorage Coastal Wildlife Refuge (1) appropriate easements and rights-of-way between the Anchorage mainland and Fire Island in Cook Inlet for the purpose of surface transportation and access to and from Fire Island, and (2) appropriate easements and rights-of-way between the Anchorage mainland and Fire Island in Cook Inlet for utility facilities between Fire Island and the mainland. The management plan provided for in (b) of this section shall address the requirements for surface transportation and access and for utility facilities between Fire Island and the mainland, and shall recommend the easement and right-of-way alignments that are most compatible with the purposes of this section and with the development of Fire Island. The Commissioner of Natural Resources shall, no later than ninety (90) days from the date on which the management plan is issued, either approve the easement and right-of-way alignments recommended in the management plan, or shall select and approve the alternative alignments that shall be used for the easements and rights-of-way reserved and created hereunder; the Commissioner's decision as to the alignments for these easements and rights-of-way shall be recorded in the records of the recorder's office of the Anchorage Recording District, Third Judicial District, State of Alaska.

RECOMMENDED AMENDMENT TO SB 19 and HB 186 -- Creating Anchorage Coastal Wildlife
Refuge

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST: _____

Bill Version : SB 18
Publish Date : _____

Revision Date: 1/27/87

Agency Affected: Natural Resources

Title: Anchorage Coastal Wildlife
Refuge

BRU: L&M

Sponsor: Szymanski & Sturgulewski

Components: _____

Requestor: Senate C&RA

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
----------------	------------	------------	------------	------------	------------	------------

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

No fiscal impact unless survey is required.

Prepared by: Carol Wilson
Division: Commissioner's Office

Phone: 465-2400
Date: 1/27/87

Approved by Commissioner: Mrs D Amred, Deputy
Agency: Department of Natural Resources

Date: 1/28/87

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary



OFFICIAL BUSINESS

Alaska State Legislature
Senate

POUCH V
CAPITOL BUILDING
JUNEAU, ALASKA 99811

TO: Senate C&RA Members

Jan 29, 1987

FROM: Senate C&RA Staff

RE: SB 18 - Anchorage Coastal Wildlife Refuge :

Enclosed in this packet is a memo and sectional analysis of SB 18 provided by the prime sponsor, a map of the affected area, and a letter and zero fiscal note from DNR.

A position paper and fiscal note from the Department of Fish and Game has not yet been received, however I have been told by representatives of the department that they support the bill and if the date for completion of a management plan (section 2, page 5, line 16) can be extended from one to three years, there would be a zero fiscal note. The sponsor has indicated that this is agreeable.

DNR's fiscal note is zero and its position paper indicate general support for the bill. DNR objects, however, to Section 1(f) of the bill (page 5, lines 13 & 14) which closes the refuge to mineral entry. The proposed boundaries of the refuge were drawn so all mining claims are outside the refuges boundaries. DNR's stance is a switch from last year when the department supported the refuge. Oil and gas leasing are not affected by this legislation.

*see C&RA letter
7/1/87 frame after
part*



Alaska State Legislature

Senator Mike Szymanski

While in Session:
P.O. Box V
State Capitol
Juneau, Alaska 99811
(907) 465-4978/4979

MEMORANDUM

TO: Senate C & R A Committee Members
FROM: *Mike Szymanski*
Senator Mike Szymanski
SUBJECT: SB 18 - Anchorage Coastal Wildlife Refuge
Background/Intent
DATE: January 26, 1987

Interim
11920 Johns Rd.
Anchorage, AK 99515
(907) 349-3373

1024 W. 6th
Anchorage, AK 99501
(907) 276-6739

In 1971, the Alaska State Legislature created Potter Point State Game Refuge (AS 16.20.030(b)) which extends southeasterly along the coastline of Anchorage from Pt. Campbell to Potter Creek. This easily accessible, urban refuge provides excellent wildlife viewing opportunities for city residents, and it enhances the Anchorage economy through its value as a tourist attraction.

In June 1983, the Municipality of Anchorage (MOA) established the Potter Marsh Task Force to address management problems that were developing both within and around the Refuge, and to subsequently make recommendations for improving management of the refuge. The Task Force is supported by the MOA, Alaska Department of Fish and Game (ADF&G), Alaska Department of Natural Resources (DNR) and interested public members.

SB 18 is supported by the Administration, the Rabbit Creek Community Council, the Oceanview Community Council, the National Rifle Association, the Municipality of Anchorage and various environmental and development groups in the Anchorage area. It is an example of multiple-use legislation which has been developed and supported by diverse groups and individuals and I respectfully request its passage by the Committee.

SB 18 would:

1) Rename the existing Potter Point State Game Refuge the "Anchorage Coastal Wildlife Refuge".

Section 1, AS 16.20.031 (a) would establish the Anchorage Coastal Wildlife Refuge to be managed for the protection of waterfowl, shore birds, salmon, and other fish and wildlife species, and their habitat and for the use and enjoyment of the people of the State. Section 3 repeals AS 16.20.030(b) which is the existing statute establishing the Potter Point State Game Refuge. This new name more accurately reflects the Refuge's location and relation to the city of Anchorage.

2) Provide a precise legal description, in surveyable section lines, of the boundaries of the State-owned land and water included in the Refuge.

The 1971 legislation reads, "The following described state-owned land and adjacent state water, excluding existing and applied-for highway, pipelines and railway rights-of-way as of May 20, 1971, are established as the Potter Point State Game Refuge: All land and water south and west of and adjacent to the toe of the bluff which extends from Campbell Point southeasterly to Potter Creek." This language does not define any real or measurable limit as to how far the Refuge boundary extends seaward, and the inland boundary is open to wide interpretation. Many times, this lack of clarity has resulted in confusion for state agencies, private development interests, and the general public. Therefore, SB 18 in Section 1, subsections (1) through (7) describes in detail the legal refuge boundaries.

3) Add additional tidelands and near shore upland to the existing refuge.

The MOA has asked that Refuge boundaries be expanded northward from Pt. Campbell to Pt. Woronzof to include municipally owned wetlands within the Refuge for management by ADF&G. In 1979, under the Anchorage Coastal Zone Management Plan, these lands were identified as Areas Meriting Special Attention and classified as Preservation Wetlands. Inclusion of these lands within the Refuge does not afford them any more protection than they already have under the preservation status, but would facilitate the uniform management of Anchorage's coastal lands. The new boundaries (described in Section 1, subsections (1) through (7)) were cooperatively drawn by the MOA, ADF&G, and DNR.

4) Restrict the state and municipality from acquiring property by eminent domain for inclusion within the Refuge.

This would protect private property owners by requiring that property to be included within the Anchorage Coastal Wildlife Refuge be acquired through purchase, exchange, or otherwise (Section 1(e)), and prohibiting acquisition by eminent domain.

5) Provide for management of the Refuge by ADF&G and DNR.

Section 1(b) provides that, as in the past, both ADF&G and DNR would exercise their respective authorities over the Refuge, except as provided in Section 1(d). Management of the Anchorage Coastal Wildlife Refuge will be consistent with a management plan prepared by the ADF&G under ASI6.20.040-16.20.060. The plan will be completed within one year of the effective date of the Act (Section 2).

The management plan prepared by ADF&G shall also provide for a corridor for transportation and utilities between Fire Island and the Anchorage mainland (Section 1(c)). This is to ensure access to the island's owners for future development and would also be of economic benefit to the MOA.

Hunting, as in the past and in accordance with state regulations will continue to be allowed on state-owned lands within the Refuge west and north of the Alaska Railroad.

While the land and water areas of the Anchorage Coastal Wildlife Refuge are closed to mineral entry under AS 38.05.185 - 38.05.275, the boundary extension north of Pt. Campbell was drawn so that all previously issued offshore mining permits were excluded from within the Refuge. Oil and gas leasing will not be affected (Section 1(f)) by this legislation

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

400 WILLOUGHBY AVE.
JUNEAU, ALASKA 99801
PHONE: (907) 465-2400

January 28, 1987

The Honorable Arliss Sturgulewski, Chair
Senate Community and Regional Affairs Committee
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Senator Sturgulewski:

Subject: Anchorage Coastal Wildlife Refuge - SB 18

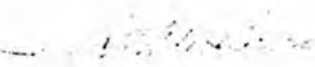
Response: 1. I am writing to indicate the Department's general support for SB 18 but to request deletion of Section 1(f).

2. This section closes the land to mineral entry, specifically locatable minerals and offshore prospecting. As a policy matter, we would like to avoid making such permanent decisions by statute.

Recommendation: I recommend two alternatives:

1. Make the mineral closure recommendations a product of the resource planning process described in Section 1(b); or
2. If mineral closure decisions are made by statute; include a periodic review provision lifting the closing order until the incompatibility of mining activities with other significant surface uses was reconfirmed.

Sincerely,


Judith M. Brady
Commissioner

cc: Committee Members
Governor's Legislative Liaison

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST: _____

Bill Version : SB 18
Publish Date : _____

Revision Date: 1/27/87

Agency Affected: Natural Resources
BRU: L&M

Title: Anchorage Coastal Wildlife
Refuge

Sponsor: Szymanski & Sturgulewski

Components : _____

Requestor: Senate C&RA

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

No fiscal impact unless survey is required.

Prepared by: Carol Wilson
Division: Commissioner's Office

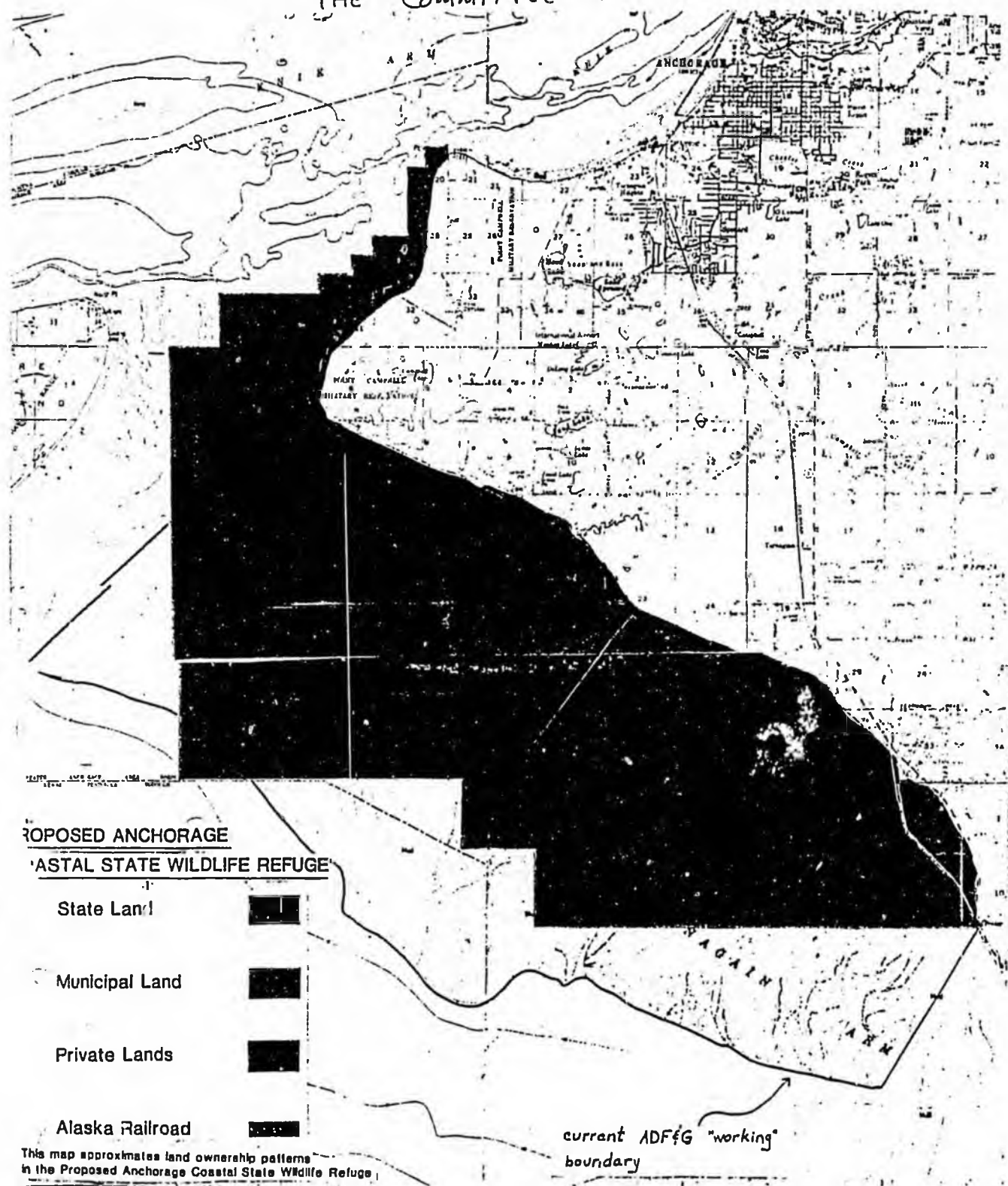
Phone: 465-2400
Date: 1/27/87

Approved by Commissioner: Wm D Ammer, Deputy
Agency: Department of Natural Resources

Date: 1/23/87

- Distribution (by preparer) :
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management and Budget
 - Impacted Agency(ies)
 - Senate Secretary

A LARGER COLOR MAP WILL BE IN THE COMMITTEE ROOM



This map approximates land ownership patterns in the Proposed Anchorage Coastal State Wildlife Refuge

INFORMATION AFTER THIS PAGE WAS RECEIVED THIS MORNING AFTER

PACKETS HAD BEEN PREPARED



STATE OF ALASKA
OFFICE OF THE GOVERNOR

BILL ANALYSIS

DEPARTMENT Fish and Game	DIVISION Habitat	BILL NUMBER SB18	SPONSOR Szymanski & Sturculewski
DEPARTMENT POSITION			
Support			
PREPARED BY Lance H. Baker Habitat Division	DATE 1/23/87	COMMISSIONER'S SIGNATURE <i>[Signature]</i>	DATE 1-29-87

SUMMARY

OTHER AGENCIES AFFECTED BY BILL Department of Natural Resources	CONSTITUENT GROUP(S) AFFECTED BY BILL Anchorage Residents
ORGANIZATIONAL SUPPORT FOR BILL Municipality of Anchorage Department of Natural Resources Potter Marsh Task Force (Interagency)	ORGANIZATIONAL OPPOSITION TO BILL None Known
FISCAL IMPACT: <input type="checkbox"/> NONE <input type="checkbox"/> FISCAL NOTE ATTACHED	

BACKGROUND/LEGISLATIVE INTENT

Establishment of the Anchorage Coastal Wildlife Refuge will protect important waterfowl and shorebird habitat in the Anchorage area. It will provide for public use and enjoyment of the refuge. The bill will clarify and enhance the existing Potter Point State Game Refuge.

ANALYSIS OF BILL/PROGRAM EFFECTS

The bill will:

1. Change the name of Potter Point State Game Refuge to Anchorage Coastal Wildlife Refuge.
2. Extend the refuge to encompass wetlands and nearshore waters lying between Point Campbell and Point Woronzoff.
3. Clarify the legal boundaries of the refuge.
4. Provide for the management of lands lying within the refuge.

AMENDMENTS PROPOSED

1. Section 2. Either change the requirement and allow 3 years for completion of the refuge management plan or provide a fiscal note to allow the refuge management plan to be prepared within one year.

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____ Bill Version: SB18
 _____ Publish Date: _____
 Revision Date: _____ Agency Affected: ADF&G
 Title: Anchorage Coastal Wildlife
Refuge BRU: _____
 Sponsor: Szymanski & Sturgulewski Components: _____
 Requestor: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES		45,100				
TRAVEL		4,000				
CONTRACTUAL		4,000				
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		53,100				
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		53,100				
FEDERAL FUNDS						
OTHER						
TOTAL		53,100				

POSITIONS:

FULL-TIME		16 B/C				
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Bruce H. Baker, Acting Director Phone: 465-4105
 Division: Habitat Date: January 26, 1987
 Approved by Commissioner: *Don Collinsworth* Date: January 29, 1987
 Agency: Fish and Game

Distribution (by preparer):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)
 Senate Secretary

January 28, 1987

COOK INLET REGION, INC.

Senator Arliss Sturgulewski, Chairman
Community and Regional Affairs Committee
Pouch V, State Capitol
Juneau, Alaska 99811

Dear Senator Sturgulewski:

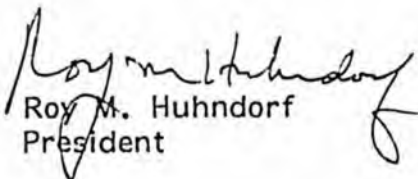
Cook Inlet Region, Inc. (CIRI) respectfully requests the Senate Committee on Community & Regional affairs to amend Paragraph (c) of proposed legislation for the Anchorage Coastal Wildlife Refuge (SB 18). Changes are necessary due to ambiguities and uncertainties regarding access to Fire Island which is owned by CIRI and the federal government. Portions of the island are currently being used by the Federal Aviation Administration and U.S. Coast Guard, and the northern portion of the island has been identified by the Port of Anchorage as a likely site for necessary future port expansion.

Specifically, the existing legislation does not adequately address the need to reserve clearly defined access and utility easements. In place of existing language, CIRI requests that Paragraph (c) be amended to include language contained in the attached March 6, 1985 recommendation to then Representative Mike Szymanski. Please note that the language was jointly supported by the Municipality of Anchorage and the Port of Anchorage.

We strongly urge that the Committee support the recommended amendment. Given the need to attract new businesses and create new underpinnings for Alaska's economy, clearer provisions for access to Fire Island -- or any other lands which can serve economic development goals, without substantial environmental costs -- are in every Alaskan's best interests.

Sincerely,

COOK INLET REGION, INC.


Roy M. Huhndorf
President

cc: Senator Tim Kelly, Vice-Chairman
Senator Rick Halford
Senator Fred Zharoff
Senator Mike Szymanski

RMH:ah
23:762

Municipality
of
Anchorage



POUCH 6-650
ANCHORAGE, ALASKA 99502-0650
(907) 264-4317

TONY KNOWLES,
MAYOR

COOK INLET REGION, INC.

DEPARTMENT OF PROPERTY & FACILITY MANAGEMENT

MAR 7 1985

HAND-DELIVERED

Land Department

March 6, 1985

Representative Mike Szymanski
State Capitol, Room 517
Pouch V
Juneau, AK 99811

RE: HB 186--Anchorage Coastal Wildlife Refuge

Dear Representative Szymanski:

In cooperation with the Municipality, CIRI land managers Don Marx and Steve Planchon have drafted the attached Fire Island access language which refines a similar provision in paragraph (c) of Senator Vic Fischer's CSSSSB 19 (C&RA). The CIRI land managers and counsel find this language preferable to the vaguer language incorporated in the committee substitute, however, CIRI has not yet committed to support (or, not oppose) the refuge legislation even if this access provision is included.

Chip Dennerlein and I have reviewed the new access language on behalf of the Municipality and find it acceptable. Tyler Jones, the Port Director, has advised that CIRI's concern with protecting access to Fire Island is a matter of similar concern to the Port of Anchorage. This new access amendment also has been read to and discussed with Tom Hawkins of the Department of Natural Resources, and he had no problem with it. The amendment has been mentioned to several people at the Department of Fish and Game including Special Assistant Roland Shanks and Bruce Baker of the Habitat Division, but they have not yet seen the specific language.

Please call me at 264-4807 to discuss this recommended Fire Island access amendment or other provisions of HB 186.

Sincerely,

Peter Scholes
Property Management Officer

cc: Senator Vic Fischer
Steve Planchon, CIRI
Debra Clausen, Habitat Division, Department of Fish and Game
Chip Dennerlein, Office of Intergovernmental Affairs, MOA
Tyler Jones, Port of Anchorage

(c) Notwithstanding any other provision of State law, there are hereby reserved and created on, within and across State lands within the Anchorage Coastal Wildlife Refuge (1) appropriate easements and rights-of-way between the Anchorage mainland and Fire Island in Cook Inlet for the purpose of surface transportation and access to and from Fire Island, and (2) appropriate easements and rights-of-way between the Anchorage mainland and Fire Island in Cook Inlet for utility facilities between Fire Island and the mainland. The management plan provided for in (b) of this section shall address the requirements for surface transportation and access and for utility facilities between Fire Island and the mainland, and shall recommend the easement and right-of-way alignments that are most compatible with the purposes of this section and with the development of Fire Island. The Commissioner of Natural Resources shall, no later than ninety (90) days from the date on which the management plan is issued, either approve the easement and right-of-way alignments recommended in the management plan, or shall select and approve the alternative alignments that shall be used for the easements and rights-of-way reserved and created hereunder; the Commissioner's decision as to the alignments for these easements and rights-of-way shall be recorded in the records of the recorder's office of the Anchorage Recording District, Third Judicial District, State of Alaska.

RECOMMENDED AMENDMENT TO SB 19 and HB 186 -- Creating Anchorage Coastal Wildlife Refuge

Mining the marsh

Potter Marsh bill mired in trouble

By JOHN LINDBACK
Daily News reporter

JUNEAU — The bill to make Potter Marsh, on the south edge of Anchorage, an official wildlife refuge just can't win.

Despite its widespread community and legislative support — it passed the House 40-0 in 1985 — the proposed Anchorage Coastal Wildlife Refuge died last year in the Senate Community and Regional Affairs Committee chaired by former Sen. Edna DeVries, a political rival of then-Rep. Mike Szymanski, the sponsor of the bill.

Szymanski said DeVries killed the bill because of their rivalry. DeVries denied it, but kept the bill bottled up in committee.

This year DeVries is out of the legislature, Szymanski is a senator, and the bill is back.

But a new problem surfaced last week.

Judy Erady, Gov. Steve Cowper's commissioner of natural resources, doesn't like the bill because it would close the marsh area to mining. She

See Page B-3, MARSH

MARSH: Debate continues

Continued from Page B-1

wants the bill reworded so the marsh could be mined in the future.

Brady's position reverses the Department of Natural Resources' previous support of the bill. The proposed boundaries of the new refuge were drawn so all existing mining claims would be outside it.

"I love that bill and I don't intend to jeopardize it," Brady said Monday. But as a matter of principle, she said, no area should be closed to any use forever. Brady says she can't envision mining activities in the area, but the state should leave open the possibility.

Szymanski said he's stunned by Brady's position.

The prospects of mineral exploration or mining in the Potter Marsh area, just off the Seward Highway, are "so far removed and remote nobody even can conceive that it would be done," he said.

Szymanski said the new commissioner is trying to avoid setting a precedent for future negotiations over wildlife refuges, such as the Arctic National Wildlife Refuge on the North Slope or the proposed Minto Flats State Game Refuge.

"I think you have to look at each refuge on a case-by-case basis," Szymanski said. "I guess if the Potter Marsh refuge was by Prudhoe Bay, you'd have to look at it differently."

Sen. Arliss Sturgulewski, one of Szymanski's three co-sponsors on the bill and chairwoman of the Community and Regional Affairs Committee, said she



also was surprised by Brady's request.

"The boundaries do not contain known mineral deposits," she said. The bill is scheduled for consideration today in her committee.

It does no harm to consider mining in the marsh, Sturgulewski said, but "I don't see that the issue should be an impediment to the legislation passing."

Potter Marsh is one of the most popular and accessible spots in Anchorage to view swans, geese, blackbirds, eagles, hawks and other kinds of birds. The area is now officially known as Potter's Point State Game Refuge, but the 1971 law that created it only loosely defines the boundaries.

Szymanski's bill would establish the Anchorage Coastal Wildlife Refuge out of 32,000 acres of land, including the present refuge and additional offshore acreage. It would stretch from the south end of Potter Marsh north to Point Woronzof.

If the bill passes out of Sturgulewski's committee, it moves to the Senate Resources Committee, chaired by conservative Republican Sen. Jack Coghill of Nenana.

Szymanski said Coghill and Brady are bound to hold similar philosophical views on the bill. Brady managed former Gov. Walter Hickel's 1986 campaign for governor and Coghill is one of Hickel's staunchest political allies.

"Resources is our next problem," Szymanski said.

SB

50

MEMORANDUM

State of Alaska

Community and Regional Affairs

TO: Local Boundary Commission


DATE: February 11, 1987

FILE NO.: 0395L/DB/1s

THRU:

TELEPHONE NO.: 561-8586

SUBJECT: Materials for
review

FROM: Dan Bockhorst 
Supervisor
LBC/GAS Components

RECEIVED
FEB 12 1987
CB Co.

This is to supplement the materials provided to you last week in preparation for your meetings scheduled for February 19 and 20. Enclosed are the following materials:

1. Draft minutes for the meeting of November 22, 1986
2. Draft minutes for the meeting of December 10, 1986
3. DCRA position papers regarding HB 65 and SB 50, relating to dissolution of municipal governments. While the position paper is unsigned, I have been advised that it was approved by DCRA Commissioner David Hoffman and is being circulated to interested parties. The substance of the position paper for both bill is identical.
4. Revised notice of the meetings to reflect the rescheduling of the meetings.
5. Revised draft agenda to reflect the following changes:
 - rescheduled time for the meeting;
 - addition of consideration of minutes of November 22, 1986 and December 10, 1986;
 - addition of opportunity for discussion with representatives of the Division of Elections regarding the issue of elections by mail.

STATE OF ALASKA
LOCAL BOUNDARY COMMISSION
MEETING MINUTES
TELECONFERENCE OF NOVEMBER 22, 1986

DRAFT

MEMBERS PARTICIPATING:

C.B. Bettisworth (via teleconference)
Robert Eder (via teleconference)
Dave Hanson
Bert Greist
Jo Anderson (via teleconference)

PLACE:

949 E. 36th Avenue
Anchorage, Alaska

STAFF PRESENT:

Dan Bockhorst

SUBJECTS:

1) Public hearing and Gene Kane (via teleconference) decisional session on a Carol Akerelrea petition by the City of Pelican for the annexation of approximately 268 acres under provisions of the legislative review process; 2) Decisional session on the petition for annexation of approximately 918.25 square miles of territory to the City of Dillingham; 3) Decisional Session on the petition by the City of Clark's Point for annexation of approximately 242 square miles of territory:

NOTE: These minutes represent a summary of the proceedings of the Local Boundary Commission at its meeting of November 22, 1986. A tape recording of the entire meeting was made and is available for the Department of Community and Regional Affairs.

DRAFT

(1/1/132) He referenced the standard requiring that the health, welfare and safety of city residents is endangered by conditions existing or developing in the territory, and annexation would enable the city to remove or relieve those conditions. He indicated that the department did not agree with this assertion primarily because the City of Pelican could legally exercise extraterritorial jurisdiction over its watershed. He stated that the city's petition expressed concern over the danger of contamination due to the lack of an adequate sewage collection system either inside or outside the municipal boundaries. He indicated that because the situation existed both within the city and outside the existing city limits, it did not seem particularly relevant to the annexation petition. He stated that the department concluded that if there were an adequate sewage collection system within the city, and none in Pelican Flats, the department's analysis would have very likely resulted in a different conclusion.

(1/1/175) He referenced the standard requiring that annexation is necessary to accomplish a valid public purpose. He noted that the petitioners asserted that annexation would allow the area proposed for annexation to become part of the approved Pelican Coastal Management Plan and help insure protection of Pelican Creek.

He stated that the department felt that this concern was not particularly relevant primarily on the basis of the city's statutory authority to exercise extraterritorial jurisdiction with respect to its watershed.

(1/1/195) He then summarized the department's analysis of the relevant standards which it felt applied to the proposed annexation. He said that these were that the City of Pelican demonstrated that it is capable of and willing to extend full municipal services to the areas proposed for annexation immediately upon annexation, except in those situations where provision of such services is impossible because of a lack of necessary facilities. He noted that this contention was made in the petition and that the department's investigation had resulted in the same conclusion. He indicated that it is the responsibility of the petitioner to satisfy the commission that the City of Pelican would provide full municipal services to the area proposed for annexation within a reasonable time, should the annexation be effected.

(1/1/230) Mr. Kane stated that residents and property owners within the area proposed for annexation are in need of municipal services which the city could provide more efficiently than another municipality. He referenced education, fire protection, trash collection, health clinic, municipal library, small boat harbor, police, snow removal, community center and street maintenance as examples. He stated that these services could be most efficiently provided by the City of Pelican but that the level of delivery of several of the services, such as fire protection, might be limited to portions of the territory to those times when low tide permits vehicular access to those areas.

(1/1/250) He stated that there is a reasonable likelihood that future growth and development will occur within the territory and that annexation of the territory would enable the city to plan for and control that development. He indicated that most notable in this respect is the current shortage of land suitable for residential and recreational development within the City of Pelican. He stated that this consideration most specifically allied to that portion of the area proposed for annexation described as Pelican Flats.

DRAFT

(1/1/285) Commissioner Anderson requested comments from the petitioner's representative, Mayor Harry Davidson.

(1/1/325) Mayor Davidson stated that the petition had been developed with the long term welfare of the entire community as the highest priority. He stated that city staff had carefully reviewed the department's draft report and recommendation to the Local Boundary Commission and agreed with the findings of the department.

(1/1/360) Commissioner Hanson asked Mayor Davidson why the proposed annexation of Pelican Flats was as large as it was.

(1/1/370) Mayor Davidson stated that it included the city's watershed.

(1/1/380) Commissioner Eder indicated that it also conformed to section lines, which made it a reasonable demarcation for an annexation.

(1/1/380) Commissioner Hanson asked if watershed protection was a major consideration relevant to the annexation.

(1/1/380) Mayor Davidson responded that it was.

(1/1/400) Commissioner Anderson requested comments from other interested parties.

(1/1/405) Carolyn Payden indicated that she wished to be on record as objecting to the proposed annexation primarily on the basis of lifestyle and her belief that the area was not urban in character. She said that she felt it was unfortunate that the people in the area might be required to pay property taxes to receive services. She indicated that her rights were being violated, that she had spent fifteen years paying for a house in the area and that the annexation was being imposed upon her.

(1/1/450) Kay Harrell indicated that she was representing her husband and two children. She stated that until recently, her family had rented property in the area proposed for annexation but were preparing to buy property and therefore had an interest in the annexation. She expressed doubt as to whether the City of Pelican could provide the residents of the area proposed for annexation with full city services within a reasonable period of time.

(1/1/490) At the request of the commission, Gene Kane explained that one of the considerations that the commission applies when reviewing proposed boundary changes is the ability and willingness of the annexing municipality to extend full municipal services to the annexed area except in those situations when extension of service is impossible because of the lack of necessary facilities. He stated that the department was aware of concern of several residents of Pelican Flats regarding access to the area during certain tide stages.

He indicated that the department was convinced that the City of Pelican was prepared to extend virtually every municipal service to the area proposed for annexation and that one service the department carefully considered was fire protection. He acknowledged that department was aware that it was difficult to transport certain types of fire apparatus to the area proposed for annexation during certain times of the day but that the department was convinced that the City of Pelican would make every effort to accommodate the need for fire protection in the "flats" as soon as it is able to do so.

DRAFT

(1/1/535) Ms. Harrell indicated that the bridge to Pelican Flats could not support the city's fire truck. She stated that she wondered where the money would be found to ensure that that portion of the community would receive fire protection.

(1/1/550) Commissioner Eder asked Gene Kane if Ms. Harrell's concerns were valid.

(1/1/565) Gene Kane stated that the City of Pelican had two pieces of fire fighting apparatus and that the newer piece of equipment was too large for the bridge. He indicated that there are other types of fire fighting apparatus which could utilize the bridge.

(1/1/600) Commissioner Hanson asked Ms. Harrell about the reference to discrimination in point three of the petition submitted by the Section 20 Association. He asked about the "three other areas" referenced in the petition which allegedly received city services.

(1/1/620) Ms. Harrell responded that she was probably referring to the "Phonograph area" the "playground" area, the "Sunnyside" area or the "mine", but was not certain.

(1/1/645) Commissioner Hanson asked Ms. Harrell if the areas referenced were physically separated from Pelican.

(1/1/650) Ms. Harrell stated that the Sunnyside area is accessible by skiff, as were portions of the area proposed for annexation. She stated that there are trails, such as an old bear trail, which could be used to access portions of the areas she referenced.

(1/1/665) Commissioner Hanson asked if those areas were up to one-half mile from the existing boundaries of the City of Pelican.

(1/1/670) Ms. Harrell replied that they were.

(1/1/675) Commissioner Hanson asked if the area in which she lived was adjacent to Pelican's existing boundaries.

(1/1/680) Ms. Harrell replied that the area in which she resided was adjacent to the existing municipal boundaries. She stated that one residence within the area proposed for annexation was accessible by skiff only. She also stated that an island which was not proposed for annexation was more accessible than portions of the area proposed for annexation.

(1/1/729) Ms. Vivian Wierta indicated that she had moved to Pelican Flats with her family in 1951, built a home there and lived there since. She said efforts to annex Pelican Flats had occurred before, but that residents of Pelican Flats did not approve of annexation on the previous occasion and still did not approve. She stated that Pelican was a first class city because it had a half-mile road to the garbage dump.

She stated that the City of Pelican was overstepping its authority by attempting to annex Pelican Flats. She stated that no benefits would accrue to residents of Pelican Flats if the area were annexed to the City of Pelican. She stated that residents of Pelican Flats paid sales taxes when they shopped in Pelican and would consent to pay property taxes, therefore annexation was not warranted.

Commissioner Hanson asked if residents of the area would pay property taxes even if their property was not located within the city limits.

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(1/1/800) Ms. Wierta stated that this was accurate.

(1/1/810) Commissioner Hanson asked if the reluctance of the residents of Pelican Flats to be annexed to the City of Pelican was based upon a reluctance to be placed under the jurisdiction of the city.

(1/1/815) Ms. Wierta stated that annexation would result in a loss of privacy to the residents of Pelican Flats.

(1/1/830) Brad Payden stated that he had been a property owner in Pelican Flats for fifteen years and objected to the proposed annexation. He stated that annexation would impact his rights to own property after paying for it and would therefore result in violation of his civil rights.

(1/1/860) Commissioner Hanson asked if the City of Pelican imposed any zoning restrictions.

(1/1/875) Mr. Payden stated that he did not know of any specific building codes but that he was sure there would be certain codes and guidelines imposed if annexation were effected.

(1/1/900) Ms. Harrell stated that her family was in the process buying property, that she had a garden and she could build as she chose upon her property. She stated that most of Pelican was built upon tide flats and there was limited area upon which to build. She stated her property was desirable because there was room to build and expand her home. She stated that she was not sure if the residents of Pelican were aware of the effect of annexation upon activities on the Flats. She stated that all activities on the flats would be regulated as a consequence of annexation.

(1/1/995) Kenneth Wier stated that he objected to annexation because the dump had already been taken away by the city and he could not ride his bike there. He stated that if the flats were annexed, he could not ride his bike there, either.

(1/1/1025) In response to a question by the commission, Mayor Davidson stated that the City of Pelican had zoning ordinances, building permits were required and restrictions were placed upon development within five feet of the property line. He stated that these were for safety purposes and to ensure reasonable growth and development. He expressed thanks to the department and the Local Boundary Commission.

(1/1/1055) Commissioner Hanson asked Mayor Davidson to distinguish between the area proposed for annexation and the other nearby areas such as Sunnyside.

(1/1/1090) Mayor Davidson stated that there were no plans for further annexation. He indicated that the difference between the area proposed for annexation and other areas was the fact that Pelican Flats was contiguous to the existing municipal boundaries.

(1/1/1125) Commissioner Eder asked if it were legal to ride bikes within the boundaries of the City of Pelican.

(1/1/1130) Mayor Davidson indicated that an individual over the age of sixteen could ride bikes within the city limits.

At this point, it was evident that no other public comments were forthcoming from Pelican teleconference participants.

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(1/1/1150) Commissioner Anderson apologized for the commission's inability, due to weather conditions, to be physically present in Pelican. She adjourned the public hearing and indicated that interested parties in Pelican could remain on the teleconference line to listen to the decisional session.

(1/1/1160) Commissioner Anderson indicated that she would entertain a motion to begin a decisional meeting.

(1/1/1165) M/S: Hanson/Eder: To open a decisional session on the petition for annexation of territory by the City of Pelican. The motion was approved unanimously.

(1/1/1195) M/S: Greist/Hanson: To approve the petition as submitted.

(1/1/1206) Commissioner Hanson stated that the report provided by the department and comments provided by Mayor Davidson indicated that four or five of the standards for annexation were met. He stated that it was clear that city services were provided to the area and that residents of the area proposed for annexation were willing to pay taxes for those services. He stated that those facts comported with standard eight. He noted that at least a portion of the area proposed for annexation was urban in character and was directly adjacent to the city. The territory was in need of municipal services in that the services are, in most cases, already provided. He asked Gene Kane for clarification.

(1/1/1265) Gene Kane indicated that the City of Pelican provided education, fire protection, trash collection, health clinic, municipal library, small boat harbor, police, snow removal, community center and street maintenance to residents of the area proposed for annexation.

(1/1/1333) Commissioner Hanson stated that it was clear that the populated portions of the area proposed for annexation received city services on an extraterritorial basis. He noted that if the services were provided, they must be needed. He stated that information received indicated that there was a likelihood of future growth and development. He stated that the only thing that had not been addressed concerned whether the rest of Pelican Flats met the standard.

(1/1/1400) Gene Kane referenced a proposal under discussion concerning possible lease or purchase of the Pelican Cold Storage electric utility facilities by the City of Pelican. The utility's hydroelectric and diesel generating equipment was located in the area proposed for annexation. If annexation of the area could facilitate an arrangement beneficial to the area's only major private employer, annexation could help secure continued employment for residents of the community and would therefore serve a valid public purpose.

(1/1/1470) Commissioner Hanson indicated that he agreed with conclusions reached in the department's report and would also add that the proposed boundary change, as it related to Pelican Flats, conformed to the standard of "other valid public purpose." He stated that it was obvious that the area referred to as "tract 1" was totally surrounded by the city's boundaries, that "tract 2" was wholly owned by the city. He stated that though there was opposition to the proposed annexation by residents of a portion of the area proposed for annexation, the public interest would be served by the annexation.

(1/1/1500) Chairman Eder stated that he agreed that standards two, three, four, five, eight and nine were met and noted that only one standard needs to be met for the commission to approve an annexation petition.

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(1/1/1530) Commissioner Hanson stated that even though residents of the area were not disposed to annexation, the public interest would be served by the proposed boundary change and therefore the legislative review method of annexation is the appropriate manner to proceed in this situation.

(1/1/1544) Commissioner Greist stated his concurrence.

(1/1/1550) Commissioner Greist called for the question.

The motion was approved unanimously.

The decisional session was concluded. Commissioner Eder resumed the role of chairman of the meeting.

(1/1/1575) Commissioner Eder opened the decisional session on the petition for annexation of approximately 242 square miles to the City of Clark's Point.

(1/1/1600) Commissioner Eder suggested that the teleconference participants in Pelican might no longer wish to audit the proceedings, since the commission had concluded its action on the Pelican annexation. He stated that the petition would be forwarded to the First Session of the Fifteenth Legislature with the commission's recommendation.

(1/1/1625) Commissioner Bettisworth indicated that he was participating via teleconference from Fairbanks.

(1/1/1625) Commissioner Hanson stated that he would not participate in the commission's deliberations on the Clark's Point and Dillingham annexation petitions because of the possible appearance of a conflict of interest. He stated that he was engaged in work for the Bristol Bay Native Corporation. Even though the work was not related to either petition, recent comments by the corporation implied that the corporation might have attitudes about the matter.

(1/1/1659) Commissioner Eder asked if any of the commissioners objected to Commissioner Hanson's withdrawing from the proceedings.

Hearing no objections, Commissioner Hanson was excused from the proceedings.

(1/1/1665) Commissioner Eder asked Dan Bockhorst to summarize materials recently submitted from the Department of Law and other interested parties regarding the proposed annexations.

(1/1/1685) Dan Bockhorst stated that on November 13, an opinion was issued by Assistant Attorney General Susan Cox, discussing the application of the common law principle of "prior jurisdiction" as it relates to the issue of two competing petitions for annexation. He noted that had been suggested by the Department of Law that the commission consider that the doctrine of prior jurisdiction applied to the situation of competing applications from the cities of Clark's Point and Dillingham. Mr. Bockhorst indicated that this meant that the first petition submitted should be the first one considered and acted upon by the Local Boundary Commission. Accordingly, the counsel of the Department of Law was that the Clark's Point petition be the first one acted upon.

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(1/1/1765) Mr. Bockhorst stated that the commission had met in both Clark's Point and Dillingham on October 4. Following the Dillingham hearing, the commission had advised both petitioners to meet and attempt to reach a mutually agreeable compromise which would possibly relieve the competitive aspects of the situation. He indicated that he had attended a meeting in Clark's Point on October 24, at which time the issue of compromise was discussed. The City of Dillingham and the City of Clark's Point had both responded to the commission. He stated that the City of Dillingham did not wish to retract the compromise its representatives had offered at the October 4 hearing of the commission. (That proposal was to reduce the area proposed for annexation to the City of Dillingham from 918 square miles by approximately 50%.) Clark's Point had agreed to reduce some areas. However, the area upon which the conflict centered, the waters of Nushagak Bay, was not one of the areas proposed for reduction by either party. Therefore, the conflict essentially remained. He noted that the commission had been provided with copies of responses from both Clark's Point and Dillingham, along with maps.

(1/1/1827) Mr. Bockhorst stated that other materials had also been provided to the commission. These included a letter dated November 3, 1986, from the Bristol Bay Native Corporation. He noted that commission members had specifically requested comments from the Bristol Bay Native Corporation. Although the corporation did not formally take a position on the issue, a number of issues and concerns were raised in its letter. He stated that the issues paralleled issues raised in the department's report and recommendation, such as concerns regarding the City of Dillingham's ability to respond to solid waste disposal problems and emergency medical responses in portions of the area proposed for annexation.

(1/1/1880) Mr. Bockhorst stated that the commission had also been provided with copies of a supplemental brief from the City of Clark's Point. He noted receipt of a petition which had been signed by approximately 70 individuals residing both within and outside the boundaries of the City of Dillingham objecting the the proposed annexation of territory by the City of Dillingham. He referenced a letter received from Marie Luckhurst providing supplemental information regarding the City of Dillingham petition and also providing an article concerning comments made by John Pearson and his perceived objectives of the City of Dillingham.

(1/1/1912) Mr. Bockhorst also read two letters into the record. (included by reference, a letter from William Johnson to Jeff Labahn, Dillingham City Manager and a letter to the commission from John Pearson, Dillingham City Councilman)

(1/1/2125) Mr. Bockhorst stated that he felt it appropriate to reiterate that the department still stood by its original recommendation, i.e., that neither petition conformed to the standards for annexation. He noted that while the department was sympathetic to the issues raised in the petitions, the issues raised were still considered to be regional in nature. As regional issues, they would be most appropriately be addressed by a borough government. He noted that the two municipalities had failed to reach an agreement concerning a compromise to the boundary proposals. He stated that this further demonstrated that the problems were not community issues, but rather regional ones. He indicated that the department felt that it was important to consider the standards for incorporation as well as the standards for annexation. He noted that the statutes address the incorporation of cities as having a community base and of boroughs as having a regional base. He stated that it is important to recognize that there are two forms of municipal government in Alaska and that it is important not to confuse the two. Boroughs should deal with regional issues.

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(1/1/2190) Commissioner Eder noted that the department's report and recommendation concluded that neither the Clark's Point nor the Dillingham petition met standards warranting annexation.

(1/1/2200) M/S: Bettisworth/Anderson: To accept the recommendation of Susan Cox, Assistant Attorney General, to address the issue of prior jurisdiction by dealing with the petition by the City of Clark's Point first and the petition by the City of Dillingham second.

The motion was approved unanimously.

(1/1/2250) M/S: Bettisworth/Anderson: To accept the petition for annexation of 242 square miles by the City of Clark's Point.

(1/1/2270) Commissioner Bettisworth stated that he regretted not having had the opportunity to attend the hearings in Clark's Point and Dillingham but that he had carefully reviewed the record and was in agreement with the department that none of the standards were met and the petition should be rejected.

(1/1/2300) Commissioner Eder stated that he agreed that none of the standards for annexation were met.

(1/1/2312) Commissioner Anderson expressed her agreement with Commissioner Eder and Commissioner Bettisworth that the none of the standards were met.

(1/1/2320) Commissioner Bettisworth asked about a reference regarding development of a dock and a boat storage area on what appeared to be a 14(c)(3) conveyance.

(1/1/2344) Dan Bockhorst stated that the department had noted that there was some planned development in the land area proposed for annexation by the City of Clark's Point and that if any area were approved for annexation the Queen's Cannery and the Clark's Slough site might warrant consideration by the commission. He suggested that the commission refer to a map submitted by the petitioner which indicated the locations of the Queen's Cannery and the Clark's Slough areas, collectively comprising approximately ten square miles.

(1/1/2380) Discussion followed regarding whether the Queen's Cannery was operating or was inactive. It was concluded that the cannery was in operation.

(1/1/2425) Discussion followed regarding the department's recommendation on whether to annex the Queen's Cannery and Clark's Slough. Dan Bockhorst indicated that testimony provided to the commission appeared to indicate that construction of a boat harbor or dock facility would not likely occur in the near future. He noted that if the Queen's Cannery were annexed to the City of Clark's Point, revenue enhancement would probably result to the City of Clark's Point. It was indicated that nine sections, including sections 7, 8, 9, 16, 17, 18, 20, 21 and the north half of sections 28 and 29 of T 12S R 54W S.M. could probably be termed more likely to experience growth and development.

(1/1/2540) Discussion followed regarding what standards would be applicable to annexation of the Queen's Cannery area. It was noted that the petitioners contended that development was likely in the area and the community would be impacted as a consequence of transportation activity resulting from cannery workers passing through Clark's Point enroute to the cannery. Dan Bockhorst stated that those considerations were similar to arguments put forth in favor of the annexation of Nushagak Bay. He stated that if the projected growth and development did appear imminent at some time in the future, annexation could be effected at that time.

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Commissioner Greist called for the question.

(1/1/2670) The commission voted unanimously against approval of the petition for annexation of approximately 242 square miles to the City of Clark's Point.

Commissioner Eder adjourned the decisional session on the petition for annexation of territory to the City of Clarks Point and called a brief recess.

After a brief recess the Chairman Eder reconveyed the meeting and convened a decisional session on the petition for annexation of approximately 918.25 square miles to the City of Dillingham.

M/S: Bettisworth/Anderson: To accept the City of Dillingham's petition for annexation of approximately 918 square miles of territory.

Discussion followed.

(1/1/2760) Commissioner Bettisworth stated that he had concerns regarding the Dillingham petition similar to those he harbored regarding the Clark's Point petition but that he would like to learn more regarding the populated areas in the vicinity of the existing City of Dillingham boundaries.

(1/1/2790) In response to a question from Commissioner Bettisworth, Dan Bockhorst stated that traditionally the department and the commission had supported annexation of heavily populated areas contiguous to the boundaries of municipalities. He noted that virtually every municipal service provided by the City of Dillingham, with the exception of road maintenance service, was provided to residents of the populated areas contiguous to the existing City of Dillingham boundaries.

(1/1/2875) Dan Bockhorst, in response to a question from Commissioner Bettisworth, noted that the commission had before it a letter from William Johnson regarding the proposed modified boundaries of the city.

(1/1/2945) M/S: Bettisworth/Anderson: To amend the main motion to modify the boundaries of the area proposed for annexation. The motion was approved unanimously. (NOTE: These boundaries were described by the commission as follows:)

Beginning at the northwest corner of Section 7, Township 12 South, Range 56 West, Seward Meridian (S.M.); thence south to the southwest corner of Section 18, Township 12 South, Range 56 West, S.M.; thence east to the southeast corner of Section 18, Township 12 South, Range 56 West, S.M.; thence south to the southwest corner of the northwest one-quarter of Section 29, Township 12 South, Range 56 West, S.M.; thence east to the southeast corner of the northeast one-quarter of Section 28, Township 12 South, Range 56 West, S.M.; thence south to the southwest corner of Section 34, Township 12 South, Range 56 West, S.M.; thence east to the northwest corner of Section 3, Township 13 South, Range 56 West, S.M.; thence south to the southwest corner of Section 34, Township 13 South, Range 56 West, S.M.; thence east to a point at 158 degrees 35 minutes West Longitude; thence due south to a point at 59 degrees 00 minutes North Latitude; thence east to a point on the line of mean low water of Nushagak Bay; thence northerly and easterly along the mean low water line of Nushagak Bay and the Nushagak River to the mean low water line on the right bank of the Wood River; thence northerly along the mean low water line on the right bank of the Wood River to a point on the northern section line of Section 9, Township 12 South, Range 55 West, S.M.; thence west to the northwest corner of Section 9, Township 12 South, Range 55 West, S.M.; thence south to the southwest corner of Section 16, Township 12 South, Range 55 West, S.M.;

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thence west to the northwest corner of Section 24, Township 12 South, Range 56 West, S.M.; thence north to the northeast corner of Section 14 Township 12 South, Range 56 West, S.M.; thence west to the northwest corner of Section 15, Township 12 South, Range 56 West, S.M.; thence north to the northeast corner of Section 9, Township 12 South, Range 56 West, S.M.; thence west to the northwest corner of Section 7, Township 12 South, Range 56 West, S.M.; the point of beginning, excluding the territory presently within the boundaries of the City of Dillingham.

(1/1/3035) Discussion followed regarding a proposal to amend the existing raw fish tax legislation to provide a measure of revenue enhancement to coastal communities impacted by offshore fisheries activity.

(1/1/3170) Dan Bockhorst recommended that the commission apply the standards for incorporation of regional based governments to the petition before it. He stated that the department felt that the populated area proposed for annexation was urban in character, that the area was in need of municipal services and that the City of Dillingham was in a position to provide those services, that given the degree of subdivision of the area and its population, there was a potential for further growth and development and regulation by the City of Dillingham could provide for the necessary regulation of growth in the area, that the residents of the amended area proposed for annexation received virtually all of the services provided by the City of Dillingham and that the City of Dillingham is prepared and capable to provide full municipal services to the area and that the processes for annexation other than the legislative review process were either inappropriate or unavailable to effect the annexation.

(1/1/3290) Commissioner Bettisworth noted that standards 3, 4, 6, 8 and 10 for annexation were met by the amended area proposed for annexation and that the legislative review process was appropriate to effect the boundary change.

(1/1/3370) Chairman Eder called for the question.

(1/1/3375) The motion, as amended, was approved unanimously.

M/S: Anderson/Greist: To approve minutes of the October 4 meetings in Clark's Point and Dillingham.

The motion was approved unanimously.

At this point, Commissioner Eder adjourned the decisional session on the petition for annexation of territory to the City of Dillingham.

At the request of the Commission, it was noted that the petition for annexation of approximately 495 square miles had been withdrawn by the City of Nenana. Discussion followed.

Commissioner Bettisworth indicated that he had reviewed the issue of compensation for the commission and had concluded that in light of the state's budget shortfall and his concern that the request could negatively affect disposition of other issues to be placed before the legislature and governor, that the proposal should be withdrawn.

(1/1/3890) Commissioner Hanson expressed his agreement with Commissioner Bettisworth's statements and suggested that a recommendation for a review of compensation received by all state boards and commissions and urging equity might be the most effective method to bring the matter to the attention of the legislature and the governor. He also noted that if compensation were not provided, it might limit the number of individuals able to serve on the commission.

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(1/1/4055) Commissioner Bettisworth noted that his motion failed for lack of a second. He suggested that a cover letter be drafted to ensure that the commission's request for compensation would not interfere with other Local Boundary Commission issues pending before the legislature.

At this point, the commission concluded its discussion of the compensation issue. Commissioner Eder initiated discussion of a draft statement of decision regarding annexation of the Fairbanks Industrial Park.

(1/1/4185) M/S: Anderson/Greist: To approve a draft statement of decision regarding the annexation of the Fairbanks Industrial Park.

The motion was approved unanimously.

Under the final item of the agenda, commissioners' comments, Commissioner Hanson asked Dan Bockhorst to provide a summary of the commission's schedule for the remainder of 1986.

(1/1/4320) Dan Bockhorst indicated that the commission would need to meet to review statements of decision regarding the Clark's Point and Dillingham petitions. He noted that a petition for municipal incorporation of Big Lake was pending but commission action would not be required for several months. Mr. Bockhorst stated that a meeting with the new DCRA Commissioner, at such time as one was appointed, might be the next occasion for the commission to meet.

After discussion, it was agreed to meet again on December 10, 1986 at 4:00 p.m., via teleconference.

The meeting was adjourned at 1:35 p.m.

APPROVED:

Eder, Chairman
Date

Robert

ATTESTED:

Staff

(1/1/105) Dan Bockhorst stated that at the commission's decisional session, the commission had been utilizing a map furnished by the City of Dillingham. The City of Dillingham had indicated that the proposed boundaries followed section lines. Upon subsequent examination, staff had determined that the boundaries drawn on the map furnished by the City of Dillingham did not conform to section lines. Accordingly, staff prepared a separate map which reflected the department's understanding of the proposed amended boundaries. He noted that a copy of the department's map and an explanation of it was provided to the City of Dillingham. Staff of the City of Dillingham had reviewed the map and the DCRA explanation of it. The City of Dillingham had expressed agreement with the department's interpretation of the proposed amended boundaries. He noted that the boundaries, as defined by DCRA, conformed to the open to entry parcel offerings of the Department of Natural Resources. He noted that the new map before the commission reflected the addition of approximately nine square miles, as directed by the commission.

Hearing no further comments, Commissioner Eder called for the question.

(1/1/230) The motion was approved unanimously. (commissioner Hanson abstained.)

Dan Bockhorst noted that the legal description contained in the draft statement of decision had been reviewed and approved by the City of Dillingham. Certain ministerial changes had been suggested. He asked if these changes might be made in the final document to be executed by the chairman. The commission expressed its acceptance of his recommendation.

Commissioner Eder then opened discussion on the draft statement of decision regarding the proposed annexation of territory by the City of Pelican.

Commissioner Bettisworth excused himself from participation in discussion regarding the proposed Pelican annexation.

Commissioner Hanson stated that he would participate in the discussion of the Pelican annexation statement of decision.

(1/1/285) M/S: Hanson/Anderson: To approve the draft statement of decision regarding the proposed annexation of territory to the City of Pelican.

Discussion follows.

At this point, the teleconference was interrupted by technical difficulties with Commissioner Hanson's connection in Hope.

At the request of Commissioner Bettisworth, it was agreed to delay discussion of the draft Pelican annexation statement of decision until such time as the teleconference connection with Commissioner Hanson was reestablished.

While waiting for Commissioner Hanson to rejoin the teleconference, Commissioner Eder suggested discussion of a draft letter to the governor concerning compensation to the Local Boundary Commission. Commissioner Eder stated that he recalled that the commission had agreed upon a specific level of compensation and asked why that figure was not reflected in the letter.

Commissioner Hanson asked for an articulation of the department's position on the matter.

Mr. Bockhorst reiterated his previous comments.

Commissioner Hanson asked if Commissioner Bettisworth felt that the letter should be sent.

Commissioner Bettisworth stated that he had moved that the letter not be sent, and that the motion had died for lack of a second.

Commissioner Eder stated that the Commissioner Hanson could second the motion, if he so desired.

(1/1/705) M/S: Bettisworth/Hanson: that the process of requesting compensation for the Local Boundary Commission be terminated.

Commissioner Bettisworth stated that in Juneau, it was apparent that the governor's proposed budget would be \$900 million less than the current budget. Accordingly, each department would be required to reduce its operating expenses by 40%. He stated that for the commission to seek compensation under these circumstances was inappropriate.

Commissioner Hanson stated that the letter was well written and expressed the commission's position effectively. He indicated that he thought it would be useful to communicate to the governor and the legislature that the commission was not compensated in a manner commensurate with other boards and commissions.

Commissioner Anderson recommended that a paragraph be struck from the draft.

(1/1/815) Commissioner Eder stated that he did not expect that the governor would act to secure additional compensation for the commission but that it would be appropriate to inform the governor that the commission served without compensation.

Commissioner Hanson stated that the matter might be more appropriately addressed in the commission's annual report to the legislature.

Commissioner Bettisworth stated that if the letter were sent, some comment indicating the commission's awareness of the state's financial problems should be included.

Commissioner Bettisworth asked if it was critical that the letter be sent promptly.

(1/1/955) Mr. Bockhorst stated that there was no particular urgency.

Commissioner Bettisworth asked when the commission could anticipate meeting next.

Mr. Bockhorst stated that at such time as a new commissioner of DCRA was appointed, the commission would meet with the individual. He noted that an annexation petition had been received from the City of Wasilla and that the City of Houston was expected to submit a petition in the near future.

Commissioner Hanson asked what date the commission's annual report to the legislature would be submitted.

Mr. Bockhorst stated that the law required that the report be submitted between the 19th and the 28th of January.

Commissioner Hanson suggested that the issue of compensation be tabled until the commission met with the new commissioner of DCRA and discussed the issue with that individual.

Commissioner Eder suggested that the letter be sent to the governor.

(1/1/1060) M/S: Hanson/Bettisworth: To table action on the issue of compensation for the commission until such time as a meeting was held with the new DCRA commissioner and/or the governor.

Commissioners Anderson, Bettisworth and Hanson voted in favor of the motion.

Commissioner Eder asked if there were any other issues for discussion.

Commissioner Hanson stated that he had learned that DCRA staff had drafted proposed new language relating to dissolution of municipalities. He indicated that he wished to have the record reflect that the Local Boundary Commission did not endorse the proposed new language.

Mr. Bockhorst indicated that while in Juneau on other business, staff had been asked to participate in a meeting with an attorney from the Legislative Affairs Agency, Deputy Commissioner Jeff Smith and Marty Rutherford, MRAD Director. The purpose of the meeting was to discuss proposed language to modify the legislation, in accordance with a request from Senator-elect Binkley. He stated that there was no intention on the part of the department to keep the information from the commission and that the draft legislation would be shared with each member.

Commissioner Eder requested that copies of the draft legislation be provided to members of the commission.

(1/1/1130) Commissioner Hanson stated that the commission had not received a response to the commission's letter requesting information regarding dissolution of municipal governments. He asked Dan Bockhorst for an explanation.

Mr. Bockhorst indicated that the department had not responded to the commission's letter regarding dissolution because of hectic activity resulting from the transition. He indicated that MRAD director Marty Rutherford had planned to meet with the Local Boundary Commission staff component regarding the matter but had been directed to travel to Juneau instead. He indicated that a response would be forthcoming in the immediate future.

(1/1/1260) Commissioner Eder then indicated that the commission's business was completed and adjourned the meeting at 4:40 p.m.

APPROVED:

Robert Eder, Chairman

Date

ATTESTED:

Staff

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

STATE OF ALASKA
LOCAL BOUNDARY COMMISSION
MEETING MINUTES
TELECONFERENCE OF DECEMBER 10, 1986

DRAFT

MEMBERS PARTICIPATING:

C.B. Bettisworth (via teleconference)
Robert Eder (via teleconference)
Dave Hanson (via teleconference)
Jo Anderson (via teleconference)

PLACE:

949 E. 36th Avenue
Anchorage, Alaska

STAFF PRESENT:

Dan Bockhorst (via teleconference)
Gene Kane
Carol Akerelrea

SUBJECTS:

1) Work session concerning statements of decision regarding petitions by the Cities of Clark's Point, Dillingham and Pelican; 2) review draft letter to the Governor regarding compensation to the Commission:

NOTE: These minutes represent a summary of the proceedings of the Local Boundary Commission at its meeting of December 10, 1986. A tape recording of the entire meeting was made and is available for review at the Department of Community and Regional Affairs. Parenthetical references are included in these minutes to enable one to locate specific portions of the tape recording. The reference consists of the number of the tape (e.g. tape one of one is shown as "1/1"; followed by a four digit number to indicate the specific section of that tape recording using a tape speed of 1.2 cm/sec.)

(1/1/0001) Commissioner Eder called the meeting to order at 4:00 p.m., at the time, date and place scheduled (1/1-0001).

(1/1/0007) M/S: Bettisworth/Anderson: To approve the agenda as submitted.

The motion was approved unanimously.

(1/1/0030) M/S: Bettisworth/Anderson: To approve draft statement of decision regarding the commission's action on the petition for annexation of approximately 242 square miles by the City of Clark's Point.

Commissioner Hanson indicated that he wished to be excused from participating in any commission actions regarding the Clark's Point and Dillingham annexation petition decisions on the basis of a previously declared potential conflict of interest.

Discussion followed. No changes were recommended to the draft statement of decision.

Commissioner Eder called for the question.

The draft statement was approved unanimously. Commissioner Hanson abstained.

(1/1/0085) Commissioner Eder indicated that the next item of business on the agenda was discussion of the draft statement of decision regarding the petition for annexation of territory to the City of Dillingham.

M/S: Bettisworth/Anderson: To approve the draft statement of decision.

Discussion followed. Commissioner Bettisworth asked staff to describe the proposed amended boundaries of the City of Dillingham.

(1/1/105) Dan Bockhorst stated that at the commission's decisional session, the commission had been utilizing a map furnished by the City of Dillingham. The City of Dillingham had indicated that the proposed boundaries followed section lines. Upon subsequent examination, staff had determined that the boundaries drawn on the map furnished by the City of Dillingham did not conform to section lines. Accordingly, staff prepared a separate map which reflected the department's understanding of the proposed amended boundaries. He noted that a copy of the department's map and an explanation of it was provided to the City of Dillingham. Staff of the City of Dillingham had reviewed the map and the DCRA explanation of it. The City of Dillingham had expressed agreement with the department's interpretation of the proposed amended boundaries. He noted that the boundaries, as defined by DCRA, conformed to the open to entry parcel offerings of the Department of Natural Resources. He noted that the new map before the commission reflected the addition of approximately nine square miles, as directed by the commission.

Hearing no further comments, Commissioner Eder called for the question.

(1/1/230) The motion was approved unanimously. (commissioner Hanson abstained.)

Dan Bockhorst noted that the legal description contained in the draft statement of decision had been reviewed and approved by the City of Dillingham. Certain ministerial changes had been suggested. He asked if these changes might be made in the final document to be executed by the chairman. The commission expressed its acceptance of his recommendation.

Commissioner Eder then opened discussion on the draft statement of decision regarding the proposed annexation of territory by the City of Pelican.

Commissioner Bettisworth excused himself from participation in discussion regarding the proposed Pelican annexation.

Commissioner Hanson stated that he would participate in the discussion of the Pelican annexation statement of decision.

(1/1/285) M/S: Hanson/Anderson: To approve the draft statement of decision regarding the proposed annexation of territory to the City of Pelican.

Discussion followed.

At this point, the teleconference was interrupted by technical difficulties with Commissioner Hanson's connection in Hope.

At the request of Commissioner Bettisworth, it was agreed to delay discussion of the draft Pelican annexation statement of decision until such time as the teleconference connection with Commissioner Hanson was reestablished.

While waiting for Commissioner Hanson to rejoin the teleconference, Commissioner Eder suggested discussion of a draft letter to the governor concerning compensation to the Local Boundary Commission. Commissioner Eder stated that he recalled that the commission had agreed upon a specific level of compensation and asked why that figure was not reflected in the letter.

Dan Bockhorst stated that that a figure of \$150 per day plus per diem had been recommended and that provision was included in draft legislation that the department had prepared. A position paper supporting that figure had also been prepared. He stated that he had been advised, subsequent to the commission's November 22 meeting, that the department would no longer actively support the compensation legislation. He stated that this was based upon rumors that the Governor would not be favorably disposed to increased compensation to the commission. He indicated that this rumor had come from several sources. He explained that these considerations were the reasons that staff had not included a specific figure in the letter concerning compensation. He stated that he would add the specific figure to the letter if the commission so desired.

Commissioner Bettisworth stated that he had growing concerns about submitting a request for compensation stemming from the fact that the governor had directed all state agencies to reduce their budgets to reflect the projected decrease of \$900 million in state revenues. Since all state departments would suffer an average of a 40% budget reduction, he did not feel that the time was appropriate for the commission to seek increased compensation. He recommended that the suggestion be withdrawn.

(1/1/465) Commissioner Bettisworth moved that the compensation request be withdrawn. The motion failed for lack of a second.

Commissioner Eder suggested that it might be appropriate to suggest an examination of compensation provided to other boards and commissions in the interest of establishing equitable levels of compensation.

Commissioner Bettisworth stated that such a recommendation might be considered presumptuous.

Commissioner Eder suggested that the letter be submitted as written.

(1/1/575) The teleconference operator interrupted to state that Commissioner Hanson was back on line.

(1/1/585) Commissioner Hanson stated that he had two concerns regarding the draft Pelican statement of decision.

He noted that he could not find reference to watershed protection as a rationale for annexation of tract #3, that he did not find possible future municipal ownership of the dam and power plant referenced and he found no reference to the proximity of the area to the existing City of Pelican boundaries referenced. He indicated that these matters were addressed in the hearing and should be reflected in the statement of decision.

Commissioner Eder requested that these considerations be added to the draft statement of decision.

Commissioner Eder called for the question.

(1/1/630) The motion was approved unanimously, with Commissioner Bettisworth abstaining.

Commissioner Eder informed Commissioner Hanson of the commission's decision regarding the letter to Governor Cowper requesting compensation for the Commission.

Commissioner Hanson asked for an articulation of the department's position on the matter.

Mr. Bockhorst reiterated his previous comments.

Commissioner Hanson asked if Commissioner Bettisworth felt that the letter should be sent.

Commissioner Bettisworth stated that he had moved that the letter not be sent, and that the motion had died for lack of a second.

Commissioner Eder stated that the Commissioner Hanson could second the motion, if he so desired.

(1/1/705) M/S: Bettisworth/Hanson: that the process of requesting compensation for the Local Boundary Commission be terminated.

Commissioner Bettisworth stated that in Juneau, it was apparent that the governor's proposed budget would be \$900 million less than the current budget. Accordingly, each department would be required to reduce its operating expenses by 40%. He stated that for the commission to seek compensation under these circumstances was inappropriate.

Commissioner Hanson stated that the letter was well written and expressed the commission's position effectively. He indicated that he thought it would be useful to communicate to the governor and the legislature that the commission was not compensated in a manner commensurate with other boards and commissions.

Commissioner Anderson recommended that a paragraph be struck from the draft.

(1/1/815) Commissioner Eder stated that he did not expect that the governor would act to secure additional compensation for the commission but that it would be appropriate to inform the governor that the commission served without compensation.

Commissioner Hanson stated that the matter might be more appropriately addressed in the commission's annual report to the legislature.

Commissioner Bettisworth stated that if the letter were sent, some comment indicating the commission's awareness of the state's financial problems should be included.

Commissioner Bettisworth asked if it was critical that the letter be sent promptly.

(1/1/955) Mr. Bockhorst stated that there was no particular urgency.

Commissioner Bettisworth asked when the commission could anticipate meeting next.

Mr. Bockhorst stated that at such time as a new commissioner of DCRA was appointed, the commission would meet with the individual. He noted that an annexation petition had been received from the City of Wasilla and that the City of Houston was expected to submit a petition in the near future.

Commissioner Hanson asked what date the commission's annual report to the legislature would be submitted.

Mr. Bockhorst stated that the law required that the report be submitted between the 19th and the 28th of January.

LOCAL BOUNDARY COMMISSION
DECEMBER 10, 1986
PAGE FIVE

Commissioner Hanson suggested that the issue of compensation be tabled until the commission met with the new commissioner of DCRA and discussed the issue with that individual.

Commissioner Eder suggested that the letter be sent to the governor.

(1/1/1060) M/S: Hanson/Bettisworth: To table action on the issue of compensation for the commission until such time as a meeting was held with the new DCRA commissioner and/or the governor.

Commissioners Anderson, Bettisworth and Hanson voted in favor of the motion.

Commissioner Eder asked if there were any other issues for discussion.

Commissioner Hanson stated that he had learned that DCRA staff had drafted proposed new language relating to dissolution of municipalities. He indicated that he wished to have the record reflect that the Local Boundary Commission did not endorse the proposed new language.

Mr. Bockhorst indicated that while in Juneau on other business, staff had been asked to participate in a meeting with an attorney from the Legislative Affairs Agency, Deputy Commissioner Jeff Smith and Marty Rutherford, MRAD Director. The purpose of the meeting was to discuss proposed language to modify the legislation, in accordance with a request from Senator-elect Binkley. He stated that there was no intention on the part of the department to keep the information from the commission and that the draft legislation would be shared with each member.

Commissioner Eder requested that copies of the draft legislation be provided to members of the commission.

(1/1/1130) Commissioner Hanson stated that the commission had not received a response to the commission's letter requesting information regarding dissolution of municipal governments. He asked Dan Bockhorst for an explanation.

Mr. Bockhorst indicated that the department had not responded to the commission's letter regarding dissolution because of hectic activity resulting from the transition. He indicated that MRAD director Marty Rutherford had planned to meet with the Local Boundary Commission staff component regarding the matter but had been directed to travel to Juneau instead. He indicated that a response would be forthcoming in the immediate future.

(1/1/1260) Commissioner Eder then indicated that the commission's business was completed and adjourned the meeting at 4:40 p.m.

APPROVED:

Robert Eder, Chairman

Date

ATTESTED:

Staff

LOCAL BOUNDARY COMMISSION

AGENDA
MEETING OF FEBRUARY 19, 1987

Department of Community and Regional Affairs
Conference Room (Room 210)
Community Building
Juneau, Alaska

- I. CALL TO ORDER (10:00 a.m.)
- II. APPROVAL OF AGENDA
- III. COMM ✓
III. BRIEFING FROM DEPARTMENT OF LAW ON STATUS OF LAWSUIT INVOLVING THE PROPOSED DISSOLUTION OF THE CITY OF AKIACHAK (MARJORIE ODLAND, ASSISTANT A.G.)
- IV. DISCUSSION CONCERNING SENATE BILL 50 AND HOUSE BILL 65, "AN ACT RELATING TO DISSOLUTION OF A MUNICIPALITY."
(note: the following have been invited to attend:
Mark Ernest, Aide to Senator Binkley
Bob Huron, Aide to Representative Hoffman
McKie Campbell, Staff to Senate C&RA Committee
Terry Hoefflerle, Staff to House C&RA Committee)
- V. DISCUSSION CONCERNING CONDUCT OF MUNICIPAL INCORPORATION ELECTIONS BY MAIL (AS 15.20.800)
(discussion with representatives of the Division of Elections)
- VI. DISCUSSION REGARDING ISSUES TO BE ADDRESSED AT JOINT MEETING OF HOUSE AND SENATE COMMITTEES ON COMMUNITY AND REGIONAL AFFAIRS
 - A. Recommendations for Legislative Review Annexation
 1. 40 square miles to City of Dillingham
 2. Old Richardson Highway Service Area to the City of Fairbanks
 3. Fairbanks Industrial Park to the City of Fairbanks
 4. Tract S-4A, USS 3218 to the City of Kodiak
 5. 168 acres to the City of Pelican
 - B. Municipal dissolution issues SB
 - C. Conduct of municipal incorporation elections by mail
 - D. Compensation for the Local Boundary Commission
- VII. REVIEW OF DRAFT LETTER TO THE CITY OF PALMER CONCERNING ANNEXATION POLICIES
- VIII. APPROVAL OF MINUTES
 - A. August 28, 1986
 - B. October 10, 1986
 - C. November 22, 1986
 - D. December 10, 1986
- IX. COMMISSIONERS' COMMENTS
- X. ADJOURNMENT

STATE OF ALASKA
LOCAL BOUNDARY COMMISSION
NOTICE OF MEETINGS

Notice is hereby given that the Alaska Local Boundary Commission will meet at 10:00 a.m., February 19, 1987 at the following location:

Department of Community and Regional Affairs
Conference Room (Room 210)
Community Building
Juneau, Alaska

The Commission will deal with the following matters during the meeting:

1. Status of lawsuit involving the proposed dissolution of the City of Akiachak;
2. Discussion concerning SB 50 and HB 65, "An act relating to dissolution of a municipality" and other aspects of municipal dissolution;
3. Discussion concerning conduct of municipal incorporation elections by mail (AS 15.20.800);
4. Current Report of the Commission to the Legislature;
5. Discussion concerning compensation to the Commission;
6. Annexation policies of the City of Palmer;
7. Approval of minutes of previous meetings.

The Commission will also meet with the House and Senate Committees on Community and Regional Affairs to discuss items 1 - 5 listed above and any other issues raised by the Committees. The meetings will be held as follows:

Senate C&RA Committee
Butrovich Room
Second Floor, Capitol Building, Juneau
3:30 p.m.; February 19, 1987

House C&RA Committee
Room 603
Court Building, Juneau
3:00 p.m., February 20, 1987

If, for any reason, (e.g. weather conditions, transportation delays, inadequate meeting room capacity, etc.), the Commission is unable to conduct the meetings at the times and/or places specified in this notice, they will be delayed until later the same day or will be rescheduled to a new time, as early as is practicable. Notice of such delay or rescheduling will be posted by the time and at the location of the meeting as originally scheduled.

For further information or a copy of the meeting agenda, contact Dan Bockhorst at the Department of Community and Regional Affairs in Anchorage at 561-8586.

MEMORANDUM

State of Alaska

TO: Local Boundary
Commission Members

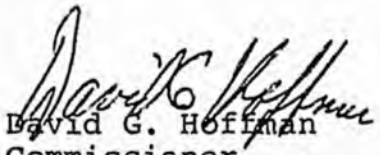
DATE: February 18, 1987

FILE NO.:

THRU:

TELEPHONE NO.: 465-4700

FROM:


David G. Hoffman
Commissioner
Department of Community
and Regional Affairs

SUBJECT: Potential Focus of
Local Boundary
Commission in the
new Administration

One of the primary goals of the Cowper Administration is to help make local government work better, especially in the smaller, rural communities of the state. During his State of the State message, the Governor said:

Over the past few years life has changed a great deal for all of us in Alaska. But no where has the change been felt as deeply as in rural Alaska . . . I believe the villages are fundamentally different culturally and historically from urban Alaska and that we must make an effort to create new forms of government that are appropriate to rural Alaska. Such forms of village government must be democratically managed and consistent with the Alaska Constitution, but they must also be consistent with the realities of village life.

On numerous occasions the Governor has stated that when he first began traveling throughout rural Alaska in 1968, he saw a form of government that seemed to be very integrated into village life. People then felt as if they "owned" their local governments, and they operated them with very little cash. In these times of fiscal crisis where there is a feeling in some communities that local people no longer "own" their local governments, it is important for the state to reexamine local government.

The movement by several communities, primarily in the Yukon-Kuskokwim Delta Area, to dissolve their state-chartered municipal governments is a symptom of discontent with the current form of local government. I have traveled to Bethel, Kasigluk, and Nome since I was appointed Commissioner to gain new insights into how people felt about their local governments. I will be traveling to Barrow, Kotzebue, and Dillingham next week to attempt to gain further insights. It is my hope that the Department of Community and Regional Affairs can assist local people in developing more effective local governments within the context of the Alaska Constitution.

The Local Boundary Commission (LBC) is squarely in the middle of the issue of the dissolution of municipal governments. I would hope that under the new Administration the LBC could take the lead role in helping to solve problems relating to the dissolution of municipal governments. I also hope that the LBC could serve as my primary advisory group in helping me deal with issues relating to local government generally.

The LBC is in a unique position to be a problem solver for several reasons. These reasons include:

- ° The Commission is composed of private citizens who have an independent and objective perspective on governance issues as a result of the fact that they are not government employees.
- ° The Commission has been dealing with local government problems in the past and can provide continuity between administrations with regards to policy relating to local governments.
- ° The Commission has substantial statutory decision making authority with regards to local government issues.

Specific issues that I would like to discuss with you on the 19th include the following:

1. Development of a specific workplan by staff under which the LBC would deal with local government issues;
2. Explore the possibility of getting consulting money to the Commission for an independent study of issues relating to the dissolution of cities;
3. The development of new forms of local government; and
4. The status of the suit filed by Akiachak against the Boundary Commission and ways in which that suit and the underlying dispute might be resolved.

I am sorry that bad weather prevented me from meeting all Commission members on January 21. I look forward to spending a considerable amount of time talking with the Commission members on the 19th, and I hope that we can work together to help focus the role of the Boundary Commission under the new administration. I look forward to providing the staff support and assistance that will allow the Commission to assume an aggressive role as a problem solver with regards to the issues we are now facing.

DGH/gmw

MEMORANDUM

State of Alaska

Community and Regional Affairs

TO: Irene Rowan
Deputy Director
Municipal and Regional
Assistance Division

DATE: January 27, 1987

FILE NO.: 0536L/DB/lc

THRU:


TELEPHONE NO.: 561-8586

SUBJECT: MONTHLY REPORT
JANUARY, 1987

RECEIVED

FEB 0 1987

CB Co.

FROM: Dan Bockherst 
Supervisor:
LBC/GAS

The following is a summary of major activities concerning the Local Boundary Commission component which occurred from December 23, 1986 through January 27, 1987.

A. MAJOR ACTIVITIES

BIG LAKE INCORPORATION

Staff conducted an informational meeting on the proposed municipal incorporation of Big Lake on January 8 at the Big Lake Elementary School. Approximately 250 individuals attended the meeting. A draft report and recommendation to the Local Boundary Commission regarding the proposed incorporation of Big Lake is scheduled to be presented to the commissioner on January 28. Upon approval by the Commissioner, the draft report will be released for public review and comment. The report is expected to be formally issued to the Local Boundary Commission by February 27. The Local Boundary Commission has scheduled a hearing on the petition for 1:00 p.m., March 14, 1987.

At its meeting of January 26, the commission discussed the intention of the Division of Elections to conduct any proposed election on municipal incorporation of Big Lake by mail. Under new statutory provisions [AS 15.20.800], state conducted special elections may held by mail-in ballot. The Division of Elections is apparently committed to exercising this option.

Proponents for incorporation feel strongly that the election should be conducted in the conventional manner for the following principal reasons:

1. The referendum on incorporation is a very significant and complex issue. People should take time to learn the pros and cons before voting. If ballots are to be mailed to all qualified voters, experience suggests that those who are not informed on the issue and who would not otherwise vote will likely vote against incorporation (i.e. retain the status quo).

Irene Rowan
January 27, 1987
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2. More than 30% of the individuals who would be eligible to vote on this question have mailing addresses other than Big Lake. Intuitively, this suggests that a rather large block of voters would likely vote for the status quo.
3. The potential for voter fraud is far greater if an election is conducted by mail.

At its January 26 meeting, the Local Boundary Commission concurred with these judgments and expressed its intent to formally raise these concerns regarding the situation because of the potential negative ramifications for all future municipal incorporations.

LOCAL BOUNDARY COMMISSION MEETING

On January 26, the commission met and conducted the following business:

Discussed with Dave Soulak, Manager of the City of Palmer, the potential annexations of several properties to Palmer, as well as the historical annexation practices of the city. Since 1972, the city has initiated 35 separate annexation proceedings. The commission has formally expressed concern over these types of numerous, small annexations. It recently addressed this very issue with the City of Kodiak who had submitted no fewer than 25 such petitions since 1978. The commission maintained that these frequent, small annexations impose unnecessary hardships on local governments, they create possible confusion in the delivery of services, and they render long term planning impossible. In this case, the City of Kodiak was formally directed by the commission to review its annexation practices and to revise them so they reflect a more coordinated approach to local boundary changes.

Approved a petition for annexation of 143.2 acres owned by the Alaska Transportation Museum to the City of Wasilla under provisions of the 100% petition process.

Approved a petition for annexation of 4.234 acres (Lot 2 Tachick Subdivision Part Two and Lot 3-A Tachick Subdivision Part Three) to the City of Soldotna under provisions of the 100% petition process.

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Tabled action on a petition for annexation of approximately 2.5 acres (Tract A, U.S.S. 3468) to the City of Kodiak under provisions of the 100 % petition process until such time as supporting documents are provided to the department.

Reviewed and approved the commission's draft report to the legislature.

Discussed municipal dissolution issues, including a review of Senate Bill 50. This bill, prefiled by Senator John Binkley, proposes amending AS 29.06.470 [Municipal Dissolution]. The current law essentially provides that a municipality may petition for dissolution when it is free of debt, or if in debt, all of its creditors are satisfied with arrangements for repayment and it no longer meets minimum standards for incorporation. If the municipality still meets minimum standards for incorporation but wishes to dissolve, it may also petition for dissolution if it is free of debt or debt repayment arrangements are made and it ceases to use each of its mandatory powers. The amendment would require that to petition for dissolution, the municipality no longer meet minimum standards for incorporation and cease to use each of its mandatory powers, or be allowed to petition for dissolution under another condition. This condition is if the dissolution question is approved in an advisory election by the voters within the municipality proposed for dissolution.

Set March 14, 1987 as the date for the public hearing on Big Lake incorporation petition. The commission discussed the wisdom of the Division of Elections intention to conduct the Big Lake incorporation election by mail. The result of the discussion was a decision to formally raise these concerns with the Governor, the Commissioner of DCRA, and the joint House and Senate Committees on Community & Regional Affairs.

Selected tentative dates for a meeting with the House and Senate Committees on Community and Regional Affairs. The preferred date is Monday, February 23, 1987. If this date can be arranged, the commission intends to meet on other matters the day before. The commission intends to discuss the following matters with the committees:

- dissolution issues (including SB 50);
- its formal report to the legislature;
- elections conducted by mail; and
- compensation to the commission.

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PALMER ANNEXATION PROPOSAL

The prevalence of negative comments submitted to the Palmer City Council at its December 23 meeting led the City of Palmer to cease, at least temporarily, consideration of a proposal for annexation of areas to the north, south, east and west of the existing municipal boundaries, including the Equestrian Acres subdivision.

KAKE ANNEXATION PETITION

On January 5, 1987, the department received a petition for annexation, under provisions of the legislative review process, of approximately 48 square miles to the City of Kake. The area proposed for annexation contains a population of approximately 150, according to the petitioner. The petitioner indicates that motivation for annexation is based upon a desire by the City of Kake to exercise greater control over the municipal watershed.

DISSOLUTION TASK FORCE

Local Boundary Commission members C.B. Bettisworth and Bert Greist met with Commissioner Hoffman concerning issues relating to dissolution of municipalities. Commissioner Hoffman indicated that he would like the commission to investigate existing issues regarding dissolution and make recommendations to deal with the issues. A memorandum outlining the commission's role in the process is forthcoming from Commissioner Hoffman. The commission intends to develop a work plan to address the task.

REPORT TO LEGISLATURE

The Local Boundary Commission's report to the First Session of the Fifteenth Legislature was developed and sent to the President of the Senate and the Speaker of the House on January 28, the tenth day of the Session. Copies are being distributed to the Governor, Commissioner Hoffman, House and Senate C & RA Committee members, MRAD supervisors and regional offices and other interested parties.

ALASKA GOLD PROPERTY ANNEXATION

The annexation of approximately 140 acres described as the Alaska Gold property to the City of Fairbanks became effective on January 15, 1987. The Local Boundary Commission approved the petition on August 2, 1986, but delayed the effective date of the boundary change because a negotiated agreement for

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voluntary annexation was reached between the city and the owner of the property. Under terms of the agreement, the boundary change was initiated at the request of the sole owner of the property with the understanding that property taxes would not be levied on the property until 1988, when development of the property will create a demand for municipal services.

Therefore, the annexation petition was originally submitted under provisions of the legislative review process but was amended and has now been effected under the local action process. A certificate of boundaries of the City of Fairbanks has been issued to reflect the annexation.

B. TECHNICAL ASSISTANCE

In addition to the major activities listed above, staff provided technical assistance to the following.

Aleutians East Region: Assistance was provided to the City Administrators of Sand Point and King Cove concerning potential formation in the Aleutians East region.

Anchorage Times: Staff provided information regarding proposed municipal incorporation of Big Lake.

Darbyshire & Associates: Staff provided Ralph Darbyshire with information regarding processes for transition from an REAA to a borough school district.

Deltana: Fairbanks MRAD staff was provided with information regarding borough formation.

Department of Law: Information was provided to the Department of Law regarding development of the Northwest Arctic Borough Charter as it relates to proposed restrictions on the authority to levy property taxes.

Dillingham: A resident was provided information regarding differential tax zones and the pending annexation by the City of Dillingham.

Dillingham: City Manager Jeff Labahn was provided with information regarding the Local Boundary Commission's actions with respect to the pending legislative review annexation by the City of Dillingham.

Division of Community Development: DCD staff was provided with information relating to the municipal dissolution process and

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issues. Meetings were held with DCD staff to discuss these matters.

Division of Elections: Staff discussed with the Division of Elections concerns regarding conducting municipal incorporation elections via mail.

Fairbanks: Information was provided to staff of the City of Fairbanks regarding annexation of the Fairbanks Industrial Park.

Galena: Steve Jones, an attorney involved in litigation with the City of Galena, was provided with information regarding the relationship between a city and its school district. Information was also provided concerning state financial aid provided to cities.

Kasigluk: A letter was drafted at the request of the Kasigluk Corporation to notify financial institutions serving the Yukon-Kuskokwim Region that the corporation is not affiliated with the City of Kasigluk.

Arctic Sounder: Information regarding formation of the Northwest Arctic Borough was provided.

KTUU: Staff responded to questions from KTUU-TV regarding proposed municipal incorporation of Big Lake.

Manakotak: Staff provided assistance in determining the boundaries of the City in relation to a proposed housing project.

Matanuska Susitna Borough: Discussions were conducted with Mat-Su Borough Attorney Lee Sharp regarding provisions for modification of service area boundaries in a Federal Voting Rights Act submission concerning the proposed incorporation of Big Lake. Staff agreed to include provisions for such when we develop the FVRA submission for the proposed City of Big Lake.

Mat-Su Frontiersman: Staff provided information regarding proposed municipal incorporation of Big Lake.

National Geographic Society: Maureen Flynn of National Geographic was provided with information regarding the local government structure of Alaska and the history of local government in Anchorage.

North Slope Borough: Information regarding voting registration was provided to a North Slope Borough resident.

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Northwest Arctic Borough: Staff provided technical information to the borough's charter commission.

Palmer: Technical assistance was provided to the City of Palmer regarding the Federal Voting Rights Act.

Prince William Sound: Assistance was provided to the MRAD technical assistance section concerning the Prince William Sound Borough study.

Port Williams: Information was provided to individuals from Port Williams regarding municipal incorporation.

Sand Point: Assistance was provided to staff of the City of Sand Point regarding annexation.

Southeast Alaska: Maps and legal descriptions of all Southeast Alaska municipalities was provided to MRAD Juneau staff.

Ungalik: A resident of Ungalik was provided information regarding municipal incorporation.

C. TRAVEL

<u>Community</u>	<u>Purpose</u>	<u>Staff</u>
Big Lake (1/8)	Big Lake Incorp. Info Meeting	Dan/Carol
Big Lake (12/30)	Big Lake Incorp. Research	Carol

D. SPECIAL ISSUES

COMMISSION TERM EXPIRATION

Local Boundary Commission Chairman Robert Eder's term expires January 31, 1987. The Department of Law has advised in the past, that even though a term expires the commission member holding the expired term continues to serve in that position.

ORGANIZATIONAL GRANTS

A memorandum was presented to the Division Director identifying the need for proposed appropriations to fund organizational grants for the Northwest Arctic Borough and the possible City of Big Lake. Under AS 29.05.190(a)(3), the Borough should receive its third year grant in the amount of \$100,000. Under AS.29.05.180(a) the prospective City of Big Lake would receive \$50,000 its initial year and \$25,000 its second year. If the city is incorporated prior to June 30, 1987 these appropriations would be needed this legislative session.

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E. ITEMS OF GENERAL INTEREST

FAIRBANKS NORTH STAR BOROUGH UNIFICATION PROPOSAL

Fairbanks North Star Borough Assemblyman Joe Sitton has requested the mayors of Fairbanks, North Pole and the Fairbanks North Star Borough to form a commission to study the potential for unification of the North Star Borough.

ANNEXATION OF VOTING AREAS

The Supreme Court recently upheld a federal court's refusal to approve, under the provisions of the Federal Voting Rights Act, a city's refusal to annex a largely black neighborhood while annexing a white neighborhood. The city argued that proposed annexations of a white area and an unoccupied area intended for white housing during the 1970's did not change the voting rights of minorities because the city had an all white population at the time. The Supreme Court decided the annexations of white areas could be seen as an effort to minimize the likely impact of future black voters, which is "as impermissible a purpose as the dilution of present black voting strength."

F. STATISTICAL INFORMATION

<u>Activity</u>	<u>Total This Month</u>	<u>Total this Year</u>
Commission Meetings	1	1
Annexation Petitions		
Received by Dept.	2	2
Reviewed by staff	1	1
Acted Upon by LBC	2	2

Statistical information can be misleading. The petitions received by the Department this month are not necessarily the same ones reviewed by staff or acted upon by the LBC. The information on the attached data sheet reflects the numbers and specific actions covered by these statistics.

cc: Local Boundary Commission

MONTH OF JANUARY, 1987

<u>ACTIVITIES</u>	<u>DATES</u>
<u>ANNEXATION PETITIONS</u> <u>RECEIVED BY DEPARTMENT</u>	
<u>Kake</u> - legislative review approximately 48 sq. mi.	1/05/87
<u>Kodiak</u> - local action (100% petition) 2.5 acres (Tract A, USS 3468)	1/02/87
<u>ANNEXATION PETITIONS</u> <u>REVIEWED BY STAFF</u>	
<u>Kodiak</u> - local action (100% petition) 2.5 acres (Tract A, USS 3468)	1/02/87
<u>COMMISSION MEETING</u> <u>1/26/87</u>	<u>Anchorage</u>
<u>ANNEXATION PETITIONS</u> <u>ACTED UPON BY LBC</u>	
<u>Wasilla</u> - APPROVED 143.2 acres owned by Alaska Transportation Museum (local action 100% Petition)	1/26/87
<u>Soldotna</u> - APPROVED 4.234 acres (Lot 2 Tachick Subdivision Part 2 and Lot 3-A Tachick Subdivision Part 3) (local action 100% petition)	1/26/87
<u>Kodiak</u> - TABLED until supporting documents provided to Dept. (local action 100% petition)	1/26/87

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
FOURTH JUDICIAL DISTRICT AT BETHEL

PETITIONERS' REPRESENTATIVE)
WILLIE KASAYULIE,)
)
Appellant,)
)
vs.)
)
LOCAL BOUNDARY COMMISSION,)
)
Appellee.)
_____)

No. 4BE-85-441 CIV

Appeal from the Local Boundary Commission Decision
Regarding the Dissolution of the
Municipality of Akiachak

BRIEF OF APPELLEE

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AUTHORITIES PRINCIPALLY RELIED UPON

Alaska Const. art. X, sec. 1

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

Alaska Const. art. X, sec. 2

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

Alaska Const. art. X, sec. 12

BOUNDARIES. A local boundary commission or board shall be established by law in the executive branch of the state government. The commission or board may consider any proposed local government boundary change. It may present proposed changes to the legislature during the first ten days of any regular session. The change shall become effective forty-five days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house. The commission or board, subject to law, may establish procedures whereby boundaries may be adjusted by local action.

(All statutory references are to Title 29 as codified before the revision, sec. 4, ch. 74, SLA 1985, eff. Jan. 1, 1986.)

AS 29.18.011

INCORPORATION OF CITIES. (a) A community that meets the following standards may incorporate as a first class city:

- (1) the community has 400 or more permanent residents;
- (2) the boundaries of the proposed city include all areas necessary to provide municipal services on an efficient scale;
- (3) the economy of the community includes the human and financial resources necessary to provide local services; in considering the economy of the community, the Local Boundary Commission shall consider property valuations, economic base, personal income, resource and commercial development, anticipated functions, and the expenses and income of the proposed city, including the ability of the community to generate local revenue;
- (4) the population of the community is stable enough to support local government;

(5) there is a demonstrated need for local government.

(b) A community that meets all the standards established in (a) of this section except (a)(1) may incorporate as a second class city.

AS 29.68.520(a)

STANDARDS. (a) Except as provided in (b) of this section, a municipality may petition for dissolution when

(1) it is free of debt, or if in debt, each of its creditors is satisfied with a method of repayment; and

(2) either it no longer meets the minimum standards prescribed for incorporation by AS 29.18, or it ceases to use each and every one of its mandatory powers.

AS 29.68.560

DECISION. If the Local Boundary Commission determines that the municipality fails to meet the standards for dissolution, it shall reject the petition. If the commission determines that the municipality meets the standards, it shall accept the petition.

19 AAC 10.010(d)

(d) In determining whether there is a demonstrated need for local government in a community for the purposes of AS 29.18.011(a)(5), the commission will, in its discretion and without limitation, consider existing and anticipated social and economic problems, whether major economic development is anticipated, adequacy of existing services, and other factors which reflect the need for local government.

19 AAC 10.130(a)

DISSOLUTION. (a) A city may be dissolved if the city has no indebtedness, bonded or otherwise, or has proposed a method of repayment which will protect the interests of its creditors, and if the following standards are met:

(1) the city has ceased, for two or more consecutive years, to exercise any of the municipal powers set forth in AS 29.48.030 -- 29.48.035;

(2) the city has failed to conduct two or more consecutive regular elections in the manner provided by law; and

(3) the city no longer meets the standards for incorporation as provided by law and regulation.

JURISDICTIONAL STATEMENT

This an appeal from an administrative decision of the Local Boundary Commission dated December 31, 1985. The court has jurisdiction to entertain this appeal under AS 22.10.020(a), AS 43.05.240(d), and Appellate Rule 601, et seq.

ISSUES PRESENTED FOR REVIEW

1. Whether the Local Boundary Commission applied the correct legal standard in determining that the City of Akiachak still meets the minimum standards prescribed for incorporation and thus does not meet the standards for dissolution.

2. Whether the commission was correct in determining that the City of Akiachak has ceased to use each and every one of its mandatory powers.

STATEMENT OF THE CASE

The City of Akiachak has existed as a second class city (municipality) since its incorporation under AS 29.18.011 in 1974. Akiachak has had a Federally-chartered Indian Reorganization Act (IRA) Council since 1948. 25 U.S.C. §§ 476-477. Akiachak was also acknowledged as a Native village under the Alaska Native Claims Settlement Act (ANCSA), 43 U.S.C. § 1610, in 1971. At issue in this appeal is the Local Boundary Commission's (LBC) denial of Akiachak's petition to dissolve its municipality under AS 29.68.500 -- 29.68.580.

On September 15, 1983, Akiachak's entire city council resigned en mass. However, this did not effect the dissolution of the city. Record (R.) at 46 and 49. The city was informed that the dissolution of the city could only be accomplished by virtue of law and in the manner prescribed by law. Id. At the time of the attempted mass resignation of the city council, the members of Akiachak's IRA Council attempted to take over functions and assets of the municipality by adopting two resolutions which (1) ordered a halt to municipal powers (R. at 437-438); and (2) delegated authority to an administrative team to carry out municipal projects until the city was dissolved. R. Vol. 3 at 53. However, the resolutions adopted by the IRA Council were of no legal effect since it could not act in place of the city government. R. at 266. This is also true of the sales tax which was initiated by the IRA council and voted on by IRA members, effective July 1, 1986. Appellant's Br. at 3. Only cities and

boroughs may impose a tax. Alaska Const. art. X, § 2. The IRA council is not a recognized local government under Alaska's constitution. R. at 266.

In spite of the confusion of the status of an acting city council, the Department of Community and Regional Affairs (DCRA) began working with community representatives in 1983 to assist them with preparation of their dissolution petition. R. at 403. However, DCRA considered there to be an operating city government while the petition process was being pursued. R. Vol. 4 at 112.

On December 10, 1984, DCRA was informed by the Department of Law that the IRA council could not act on behalf of the city council, nor could it be the entity petitioning for dissolution of the city. Only an independent trustee could act in place of the city council, which most likely would be the commissioner of DCRA, his designee or a trustee appointed by the court. R. at 267. DCRA and the Department of Law concurred that the city of Akiachak did not technically satisfy the standards of dissolution and that there was significant activity on the part of the city during the requisite two-year period preceding the petition. R. at 269 and Vol. 4 at 112.

In August 1984, Akiachak submitted its final petition to DCRA. R. at 403. DCRA prepared a report of its findings with recommendations to the LBC pursuant to AS 29.68.550. R. at 339. A hearing on the petition was held by the LBC in Akiachak on March 2, 1985. Testimony was given by Jeff Smith Deputy Commis-

sioner of DCRA, members of Akiachak's IRA Council and local citizens. R. Vol. 3.

On May 18, 1985, the LBC held its first decisional meeting on Akiachak's petition for dissolution. R. Vol. 4 at 107. At that meeting, Marty Rutherford, director of the municipal and regional assistance division, DCRA, was asked by an unidentified commission member if, in actuality, the city of Akiachak was still an operating city. Ms. Rutherford responded, "As far as the state is concerned, absolutely." R. Vol. 4 at 112.

On May 18, 1985, the LBC, by a vote of 2-2, denied Akiachak's dissolution petition. R. at 514. A reconsideration of the vote was granted under AS 44.62.540. During the November 9, 1985 meeting of the LBC to reconsider the petition, Commissioner Bettisworth concluded as follows:

Based on this ... essentially this business of meeting the standards for incorporation where there's a need, demonstrated need for a municipality. Anyway, it's clear from all the data before us that there is a need and they continue to act as a city or a municipality.

R. Vol. 4 at 224. In determining "need," the LBC looked to the statutes and regulations pertaining to this requirement, namely AS 29.18.011 and 19 AAC 10.010(d). R. Vol. 4 at 224-227.

In its December 31, 1985 written decision, the LBC concluded that "the dissolution petition of the City of Akiachak fails to satisfy requirements of Section 29.68.520(a)(2) of the Alaska Statutes. Specifically, the community continues to meet the minimum standards for municipal incorporation and the City of

Akiachak has not ceased to use each and every one of its mandatory powers." R. at 671. The petition was denied and this appeal followed.

SUMMARY OF ARGUMENT

The LBC is an agency created by Alaska Constitution article X, section 7, given the authority to determine all local boundary changes in the state. The LBC must also uphold the fundamental policy of the purpose clause of local government (Alaska Const. art. X, § 1), which is to promote the municipal form of government. This policy governs the decisions of the LBC, especially when it considers whether a dissolution petition meets the standards set out in the statutes and regulations. AS 29.68.520; 19 AAC 10.130.

Appellant petitioned for dissolution of its municipality under AS 29.68.500 -- 29.68.580. The petition failed to comply with all of the requirements of AS 29.68.520. The LBC did find that the petition complied with AS 29.28.520(a)(1), as being free of debt and is not at issue in this appeal. However, the LBC also found that Akiachak's dissolution petition failed to comply with AS 29.68.520(a)(2), as follows:

(2) either it no longer meets the minimum standards for incorporation by AS 29.18, or it ceases to use each and every one of its mandatory powers.

R. at 669. The LBC based its decision on all the evidence presented to it by DCRA and testimony from petitioners.

Appellant complains that the LBC improperly interpreted the minimum standards for incorporation in AS 29.18.011, namely AS 29.18.011(a)(5), which reads, "there is a demonstrated need for local government." Appellant continually asserts that because there is no "desire" for a municipal form of government in Akiachak, that there can be no "need." However, petitioner has overlooked the applicable regulation defining "need for local government" found in 19 AAC 10.010(d). The LBC considered the factors establishing "need" as found in this regulation and concluded, based on the law as applied to the facts in this case, that there continued to be a need for the municipality. R. at 669.

As to the second requirement of AS 29.68.520(a)(2) (mandatory powers), appellant claims that this requirement was satisfied by default based upon DCRA's opinion that second class cities do not have any mandatory powers under AS 29.43.040 -- 29.43.105. R. at 421, 422. This conclusion by DCRA was erroneous. Mandatory powers are found not only in AS 29.43.040 -- 29.43.105, but are found throughout Title 29, the regulations, local charters and ordinances, and the constitution. Akiachak was considered by DCRA as being an active, operating city throughout the petition period. R. Vol. 4 at 112. And, the LBC properly concluded that Akiachak had not ceased to use its municipal powers for the required two-year period as required in the regulations. 19 AAC 10.130(a)(1) states that the municipal powers which must cease for two years are those contained in AS 29.48.030 -- 29.-

48.035. As an active, operating city, Akiachak continued to exercise those powers. Exercise of such powers must have been considered to be "mandatory" powers under this regulation adopted by the LBC. LBC interpretation of "mandatory powers" should be given deference by this court as a matter committed to agency expertise by the constitution and by statutory law allowing the LBC to adopt regulations to implement the dissolution process.

The LBC did not overlook the desire of the citizens of Akiachak in its decision to deny the petition. R. at 670. However, the LBC must base its decision on existing law, as well as the constitutional policy to uphold the municipal form of government. Appellant also asserts that the only "local government" desired in Akiachak is the IRA government. However, Akiachak's IRA Council is not a local government vested with powers nor is it a recognized form of government under the Alaska Constitution. All local government powers must be vested in boroughs and cities. Alaska Const. art. X, § 2. Therefore, this is not a case of Akiachak's residents choosing one form of local government over another. In reality, it concerns only whether the petition for dissolution the municipality, putting Akiachak back to the status of an unincorporated city, met the legal standards for dissolution. The LBC found that the petition did not comply with the requirements of AS 29.68.520 and it was required by law to deny the petition.

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