

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672

5616 HOUSE COMMUNITY & REGIONAL AFFAIRS

25

Senator John Binkley
PO Box V
Juneau, AK 99811

POSITION STATEMENT: Spoke in opposition to the North
Star Borough Petition

Representative Mark Boyer
PO Box V
Juneau, AK 99811

POSITION STATEMENT: Spoke in opposition to the North
Star Borough Petition

Representative Mike Davis
PO Box V
Juneau, AK 99811

POSITION STATEMENT: Spoke in opposition to the North
Star Borough Petition

Lamar Cotten, Administrator
Aleutians East Borough
1007 West 3rd, #201
Anchorage, AK 99501

POSITION STATEMENT: Boundary Commission Report

Eugene Hardy
PO Box 1267
Fairbanks, AK 99701

POSITION STATEMENT: Spoke in favor of the North Star
Borough Petition

Rex Nutter
PO Box 1267
Fairbanks, AK 99701

POSITION STATEMENT: Spoke in favor of the North Star
Borough Petition

Will Mayo
PO Box 75329
Fairbanks, AK 99707

POSITION STATEMENT: Spoke in opposition to the North
Star Borough Petition

Mike Walleri
201 First Avenue
Fairbanks, AK 99707

POSITION STATEMENT: Spoke in opposition to the North
Star Borough Petition

Linda Freed
Kodiak Island Borough
710 Mill Bay
Kodiak, AK 99615

POSITION STATEMENT: Spoke in favor of the Kodiak Island
Borough Petition

Saul Friedman, Attorney
Lake and Peninsula School District
1227 West 9th, #300
Anchorage, AK 99501

POSITION STATEMENT: Spoke in opposition to the Kodiak
Island Borough Petition

Frank Hill, Superintendent
Lake and Peninsula School District
King Salmon, Alaska 99613

POSITION STATEMENT: Spoke in opposition to the Kodiak
Island Borough Petition

Lyle Larson
City Manager
Dillingham, AK 99576

POSITION STATEMENT: Spoke in opposition to the Kodiak
Island Borough Petition

Jonathan Soloman
Fort Yukon, AK 99741

POSITION STATEMENT: Spoke in opposition to the Kodiak
Island Borough Petition

Vern Roberts
PO Box 2227
Palmer, AK 99645

POSITION STATEMENT: Spoke in opposition to the Kodiak
Island Borough Petition

PREVIOUS SENATE COMMITTEE ACTION

No previous action to record

ACTION NARRATIVE

TAPE ONE, SIDE A
Number 001

Chairman Adams called the Community and Regional Affairs meeting to order at 1:10 p.m. The Local Boundary Commission's Report was introduced as the first order of business.

Number 010

Charles Bettisworth, Chairman of the Local Boundary Commission, gave a quick overview of the commission stating that it is a quasi judicial body, constitutionally mandated to oversee the creation and changes to municipal boundaries. The commission deals with incorporations,

annexations, dissolutions, consolidations and mergers, and actually acts as an arbitrator for municipal boundary decisions. Of importance to the legislature are the legislative review annexations, which allows the legislature to approve or deny the commission's decision on a petition for annexation.

Two legislative annexations to be discussed were Kodiak / Lake and Peninsula, and the Fairbanks North Star Borough.

The Kodiak Island Borough and Lake and Peninsula petitions were submitted at the same time and accepted as competing petitions, since Kodiak included some of the same area petitioned by Lake and Peninsula. After three days of hearings, both petitions were approved and amended with Lake and Peninsula's boundaries to exclude those areas accepted for Kodiak. A request for reconsideration was filed by the communities in the Bristol Bay area concerned that the proper head waters for two of their rivers now fell within the Lake and Peninsula boundaries. On January 26, the commission held a teleconference with those communities and heard reasons for their request for reconsideration. The request was denied.

The North Star Borough's petition, which included a section of Alyeska Pipeline, dealt with the distribution of declining revenue and resources to provide local services and was approved after listening to public testimony. Both Alyeska Pipeline and the Tanana Chief's Conference filed requests for reconsideration but were denied a hearing until their second appeal. The Commission chose not to reconsider their action on annexation, feeling the actual issue was one of state revenue and could best be decided by the legislature.

Over the last several years, the commission has been requested to do 10 feasibility studies from unorganized boroughs showing a heightened awareness and interest in borough formation. The commission also adopted a policy statement recommending that the legislature take a look at the incentives and disincentives of borough formation; at the distribution of equity and financial aid to municipalities; and at the comprehensive analysis and viability of potential boroughs. The commission recognized the value of forming boroughs, particularly in the areas of local control involving serious social issues, one of which is alcohol.

Senator Adams asked when the 45 day time frame started and ended for the legislature to act on a resolution.

Number 320

Shelley Dugan, Vice Chairman of the Local Boundary Commission, responded stating the last day the legislature could act would be March 4, 1989.

Number 330

Senator Binkley clarified that during the hearing for reconsideration on the North Star Borough's petition, the commission rescinded its initial decision and disapproved the petition, then passed a motion to reconsider and reapproved the petition, and then failed a second request for reconsideration, which allowed the petition to stand approved.

Shelley Dugan agreed.

Senator Binkley asked how many of the commissioners supported and opposed the petition.

Shelley Dugan stated the initial motion to approve was a vote of 3 to 1 and the final request for reconsideration failed with a tie of 2 to 2. She further stated that the commission has no formal rules of procedure, except that everything is done by a majority vote, and in this case they were following the advice of the Attorney General via teleconference allowing the petition to come before the legislature with a tie vote.

Senator Binkley stated he felt that since the approved petition was not done with a majority vote it did not pass, and objected that he had been denied a chance to testify at the first hearing.

Shelley Dugan responded that there was a great deal of confusion at the first hearing, which is why the commission decided to hold a second hearing to allow other interested parties to participate.

Number 497

Representative Cato suggested the commission adopt a formal policy of parliamentary procedure.

Shelley Dugan stated the commission was in the process of adopting a formal policy.

Chairman Adams asked for the size of the annexed area and what it meant to the Fairbanks general fund.

Charles Bettisworth stated the area was 216 square miles and the amount to be removed from the general fund would be \$2 million dollars.

Senator Frank clarified the net figure would be \$1.3 million dollars because of a reduction in the education foundation formula.

Senator Binkley explained that the first two years would be at \$2 million dollars and the third reduced to \$1.3 million.

Senator Pourchot asked how the commission viewed the average tax base acquired in the annexation relative to amount of services the Borough would provide.

Shelley Dugan stated that the issue of services was not addressed, however, they did look at the statewide per capita value.

Senator Pourchot stated that under the commission's criteria for annexation, the boundaries that were considered require no services to be rendered and asked if the commission considered expanding the boundaries to include a broader service area and not just a tax base.

Shelley Dugan stated it could be considered an option.

Senator Frank asked if any thought was given to the fact that no one lived in the annexed area and if any consideration was given to the socioeconomic ties of one borough over another.

Shelley Dugan responded that the people who worked within the area felt they were more closely tied with the services of the North Star Borough and that allowing the annexation to proceed would not diminish the financial viability of an adjoining borough. She personally felt the North Star Borough should have asked for more land and that this particular annexation, inherent with its problems, needed to be brought forward to the legislature despite the lack of a majority vote.

Tape Two, Side B
Number 001

Representative Foster asked for clarification on the general fund transfer.

Number 095

Lamar Cotten, Local Boundary Commission Member, commented that he felt the annexation request did not meet the standard criteria except for one stating that it needs to be a valid public purpose. On a conservative point of view, the commission was established to define local boundaries and it's up to the legislature to specify local and state revenue sharing and equalization within those

boundaries. By including a portion of the pipeline in this annexation, it is one way for the Borough to enhance local revenues without adding services.

Senator Frank asked in his opinion if the area should be in a borough at all.

Lamar Cotten stated the area needed to be looked at but he had difficulty justifying annexation of the pipeline area.

Representative Boyer asked if there were other areas in the state which provide no services.

Lamar Cotten stated that each boundary request is considered unique and felt that the annexation didn't have much merit given the fact that no one lived in the area, no services were to be provided, and it happened to include \$162 million dollars worth of taxable property.

Senator Frank asked if the annexed area would have naturally fit in with the original borough boundaries, and if socioeconomic ties could be considered on new petitions.

Lamar Cotten stated that on the North Star Borough annexation the original boundaries were not thought of, and for new petitions, socioeconomic ties should definitely be considered.

Representative Cato commented that although the Borough was formed in 1964, a petition for annexation was not filed until after the pipeline was built.

Representative Pettyjohn asked if there were different standards the commission should use for the formation of a new borough versus annexation.

Lamar Cotten stated the criteria were similar but slightly different but that the Local Boundary Commission needs to take a state perspective or a more comprehensive look at borough formations and annexations instead of the piecemeal approach.

Representative Mike Davis stated that he felt the annexation would be best as part of the North Star Borough, but that annexation for a tax base only is not enough for approval.

Senator Binkley clarified that piecemeal annexations should not be allowed by the commission just to satisfy a shortfall in local revenues.

Lamar Cotten agreed.

Number 472

Eugene Hardy, attorney for the Fairbanks North Star Borough, commented that originally the boundaries of the Borough extended to the Canadian border and by an act of the legislature was reduced to its present size.

Rex Nutter, the Director of the Department of Community Planning of the Fairbanks North Star Borough, stated that when the assembly designated the land for annexation it was not known that the land was vacant. He stated that "the boundaries were extended to help sustain a reasonable borough for the communities that live in it and money is a great facet of reasonableness when we start talking about providing services." The Borough did look at their boundaries prior to the petition and decided the best area to expand would be to go north in a box-like manner. And although the question before the legislature is one of revenue, the Borough believes the best services are maintained on a local level and that the transfer of funds would be justified.

Senator Binkley asked why the state should pay the North Star Borough \$2 million dollars when no one in the annexed area would receive any services.

Rex Nutter stated the money would go into the Borough's general fund and be distributed into those area's needing services.

Tape Two, Side A
Number 001

Senator Binkley commented that perhaps the Borough ought to simply ask for an appropriation of funds from the legislature instead of going through annexation procedures.

Senator Frank understood that the purpose for annexation may have been a way to continue providing emergency medical services to Pump Station 7.

Senator Binkley asked who told the Borough they couldn't provide emergency medical services to an area.

Eugene Hardy stated it was a legal opinion rendered by one of his predecessors in the Borough Attorney's office.

Senator Binkley offered to work with the Borough to make changes to the statutes allowing services to be provided to that area.

Representative Pettyjohn stated this annexation may be setting a precedent if allowed to pass.

Number 180

Will Mayo, the Assistant to the President of Tanana Chiefs Conference, stated the option of forming boroughs has become an important subject in the rural areas and the Tanana Chiefs have received several feasibility studies incorporating different sections. As a region the Tanana Chiefs need to look at incorporating into a large borough in order to get better services for their people and this is one of the option areas they are considering. For this reason the Tanana Chiefs oppose annexing this area to the North Star Borough until they've had enough time to study the feasibility of a large regional borough.

Number 359

Mike Walleri, Attorney for the Tanana Chiefs Conference, commented that studies already done were considered marginal and were only of smaller areas within the Tanana Chiefs region. It became evident that the economy of scale and the density of population would require a larger borough. Based on a suggested population base of 11,175 people, the tax cap in the Tanana Chiefs region would translate to a \$2.08 billion dollar limit on the amount of property that could be assessed and taxed. The Commission's statement on regional government proposing the equalization of tax bases around the state uses a per capita calculation. However, the cost of providing services in different parts of the state varies widely and if translated to a per capita basis, Fairbanks actually ranks 6 out of 13 boroughs ahead of Anchorage and Juneau. The question becomes one of whether Fairbanks actually deserves the annexed tax base over another borough.

Mike Walleri further commented that the Local Boundary Commission's recent policy statement adopts a lower standard for an excess tax cap than that used by the legislature and since it was not adopted as a regulation it is not subject to legislative review. The Tanana Chiefs would like to see the legislature reject the petition.

Senator Frank asked what caused the Tanana Chiefs to oppose the annexation at such a late date.

Mike Walleri stated that after reviewing the studies received from the Local Boundary Commission in December, it became apparent smaller boroughs were not going to be viable and that a larger borough would be needed. Unfortunately the North Star Borough's petition had already been put in motion and since the annexed area was one of the options mentioned in two of their studies, they objected.

Will Mayo further commented that the Tanana Chiefs' membership encompasses 43 villages in the interior covering

a large area and that forming a large borough will take a lot of work bringing everyone together.

Senator Frank asked if the Tanana Chiefs had opposition to the formation of a large borough.

Mike Walleri stated there was both opposition and support for a large borough, but that the 1991 amendments helped put a new emphasis on the formation borough governments.

Senator Frank asked what the Tanana Chiefs thought the socioeconomic aspects were of the proposed annexed area.

Mike Walleri stated the only school in the area is supported by Fort Yukon not Fairbanks, the roads are maintained by the State, and the sanitation is maintained by Alyeska Pipeline for their pump station, so all in all Fairbanks has very few ties if any to the annexed area.

Chairman Adams concluded the testimony on the petition of the Fairbanks North Star Borough and proceeded with testimony dealing with the petitions from the Kodiak Island Borough and Lake and Peninsula.

STATE OF ALASKA

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

- P.O. BOX B
JUNEAU, ALASKA 99811-2100
PHONE: (907) 465-4700
- 949 E. 38TH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99508-4302
PHONE: (907) 563-1073

November 7, 1988

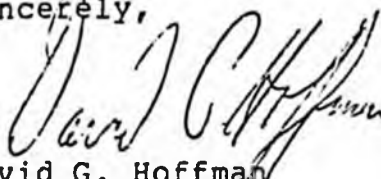
Dear Reader:

The following is the executive summary and complete report of the Department of Community and Regional Affairs concerning the proposed annexation of 216 square miles to the Fairbanks North Star Borough.

These materials were prepared for two reasons. First, in compliance with state law, they provide a formal analysis and recommendation to the Alaska Local Boundary Commission regarding the proposed annexation. Secondly, the materials provide important information to individuals who may be interested in this annexation proposal.

Anyone who has questions or wishes to discuss aspects of this report or the proposed annexation may contact Local Boundary Commission staff by calling 561-8586, or by writing to the Anchorage address listed above.

Sincerely,



David G. Hoffman
Commissioner

TABLE OF CONTENTS

EXECUTIVE SUMMARY

PAGES i - vii

COMPLETE REPORT

Section A. ADMINISTRATIVE AND PROCEDURAL INFORMATION

	<u>Page</u>
INTRODUCTION.	1
A. 1. Alaska Local Boundary Commission.	1
A. 2. Standards for Annexation of Contiguous Territory.	1
A. 3. Available Procedures.	3

Section B. LEGISLATIVE REVIEW METHOD OF ANNEXATION

INTRODUCTION.	4
B. 1. Legislative Review as the Most Appropriate	4
B. 2. Legislative Review Process	4

Section C. ANNEXATION PROCEEDINGS/BACKGROUND INFORMATION

INTRODUCTION.	6
C. 1. Proceedings to Date	6
C. 2. Reasons for Annexation.	6

Section D. AREA PROFILE

INTRODUCTION.	7
D. 1. Area Proposed for Annexation.	7
D. 2. Fairbanks North Star Borough.	8

Section E. APPLICATION OF ANNEXATION STANDARDS

INTRODUCTION.	9
E. 1. STANDARD 1: Contiguous Territory.	9
E. 2. STANDARD 2: Ownership of Territory.	9
E. 3. STANDARD 3: Need for Municipal Services	9
E. 4. STANDARD 4: Future Growth and Development in Territory	10
E. 5. STANDARD 5: Health, Welfare or Safety of Residents as Affected by Territory	10
E. 6. STANDARD 6: Necessary Extension of Services into Territory.	10
E. 7. STANDARD 7: Benefit of Services Without Property Tax Contribution.	11
E. 8. STANDARD 8: Valid Public Purpose.	11
E. 9. STANDARD 9: Capability and Willingness to Extend Municipal Services	13
E.10. STANDARD 10: Social, Cultural and Economic Interrelationship	13
E.11. STANDARD 11: Size and Stability of Population	13

TABLE OF CONTENTS

	<u>Page</u>
E.12. STANDARD 12: Natural Geography.	13
E.13. STANDARD 13: Human and Financial Resources	14
E.14. STANDARD 14: Transportation Facilities . .	14
 Section F. OTHER CONSIDERATIONS	
INTRODUCTION.	15
F. 1. Is the Annexation "Good Policy"?	15
F. 2. Effect on the Viability of a Potential Future Borough in the Adjacent Region. . . .	18
F. 3. Issue as a Precedent	19
 Section G. CONCLUSION AND RECOMMENDATION	
INTRODUCTION.	20
G. 1. Department Conclusion	20
G. 2. Department Recommendation	20
 Section H. EXHIBITS	
EXHIBIT A: Map of Area Proposed for Annexation	
EXHIBIT B: Map of Alternative Boundaries Considered	
EXHIBIT C: Map of the Historic Boundaries of Fairbanks North Star Borough	

EXECUTIVE SUMMARY

The Fairbanks North Star Borough (FNSB) is seeking to expand its boundaries by 216 square miles (see Exhibit A - map of territory proposed for annexation). On its surface, the annexation proposal appears fairly simple and non-controversial. Characteristics of the proposal include:

- ° Small size. In relative terms, the magnitude of the proposed expansion is very modest. The annexation would increase the size of the FNSB by less than 3%.
- ° Limited opposition. To date, the Department of Community and Regional Affairs has received an indication of opposition to the annexation from only one individual. The statement in opposition consists of a two sentence letter indicating that the opposition is due to the fact that "the borough is big enough as it is now".
- ° Limited private ownership of land. According to the FNSB, "all six townships (216 square miles or 138,240 acres) are either State tentative approved or are conveyed to the State. There appear to be about three dozen 40 acre mining claims (and) about three or four U.S. Surveys which would indicate homesites, homesteads or another private interest". Assuming there were four U.S. Surveys, each comprised of 40 acres, these (along with the mining claims) would total approximately 1,600 acres or 1.2% of the total area proposed for annexation.
- ° Absence of residents. According to the FNSB, the area proposed for annexation is uninhabited.

Notwithstanding the above, there is one aspect of the proposal which raises significant policy questions for the State of Alaska. The territory proposed for annexation includes approximately 16 miles of the trans-Alaska oil pipeline and pump station number 7. Together, these pipeline facilities are estimated to have a taxable value of \$162,600,000.

The pipeline facilities in question are presently taxed by the State of Alaska at the rate of 20 mills (see AS 43.56.010). If the annexation were approved by the Local Boundary Commission and the First Session of the Sixteenth Legislature, the FNSB could also tax the property beginning January 1, 1990. Under the present rates, the FNSB would tax the property at 12.243 mills. At the present value, the FNSB tax on the subject property would generate \$1,990,712 in annual revenues for the Borough.

minimize the policy implications of this particular proposal. Nonetheless, additional consideration of this question is warranted. A couple of analogies will aid in the further examination of this matter.

Analogy number 1. The policy implications of this annexation proposal would seem to be somewhat analogous to the question of whether it would be good policy to approve the formation of any new borough having jurisdiction over a portion of the pipeline.

Five regions of the unorganized borough presently have substantial pipeline properties passing through them. These regions are: Prince William Sound, Copper River Basin, Delta-Greely, Yukon-Koyukuk and Yukon Flats. Each of these regions has either completed or is undergoing a study to examine the feasibility of forming a new borough. None of the studies contemplate the exclusion of the pipeline from the potential boroughs. To do so would create two classes of "pipeline boroughs", those which could tax the pipeline and those which could not.

Analogy number 2. The second analogy is somewhat more involved. It concerns the extent to which municipalities generate revenues from truly local sources.

A limited number of municipalities in the state have access to particular sources of funds which are not generally available to all municipalities. For example, less than 5% of the State's political subdivisions have the capacity to levy taxes on oil and gas properties; 34% receive a share of the taxes which the State levies on fisheries; and less than 3% receive revenues under the National Forest Receipts program. For purposes of this discussion, revenues from such sources are not considered locally generated revenues. Stated succinctly, the analogous question here is whether the State should authorize the creation of any municipality or the expansion of any municipal boundaries if that municipal government is not going to contribute substantially to its own operation through truly locally generated revenues.

In the case at hand, the annexation would allow the FNSB to increase its "non-locally" generated revenues by nearly \$2 million annually while it incurs virtually no increase in the cost of providing services. The State would lose \$2 million in annual revenues and would realize no savings as it might if the area were inhabited (e.g. through the transfer of education services from the regional educational attendance area to the municipal school district).

To address this analogous question, it is appropriate to begin with an examination of the revenue generating efforts of the FNSB. Based upon figures presented in the petition, the

CORRECTION

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

EXECUTIVE SUMMARY

The Fairbanks North Star Borough (FNSB) is seeking to expand its boundaries by 216 square miles (see Exhibit A - of territory proposed for annexation). On its surface, the annexation proposal appears fairly simple and non-controversial. Characteristics of the proposal include:

- ° Small size. In relative terms, the magnitude of the proposed expansion is very modest. The annexation would increase the size of the FNSB by less than 3%.
- ° Limited opposition. To date, the Department of Community and Regional Affairs has received an indication of opposition to the annexation from only one individual. The statement in opposition consists of a two sentence letter indicating that the opposition is due to the fact that "the borough is big enough as it is now".
- ° Limited private ownership of land. According to the FNSB, "all six townships (216 square miles or 138,240 acres) are either State tentative approved or are conveyed to the State. There appear to be about three dozen 40 acre mining claims (and) about three or four U.S. Surveys which would indicate homesites, homesteads or another private interest". Assuming there were four U.S. Surveys, each comprised of 40 acres, these (along with the mining claims) would total approximately 1,600 acres or 1.2% of the total area proposed for annexation.
- ° Absence of residents. According to the FNSB, the area proposed for annexation is uninhabited.

Notwithstanding the above, there is one aspect of the proposal which raises significant policy questions for the State of Alaska. The territory proposed for annexation includes approximately 16 miles of the trans-Alaska oil pipeline and pump station number 7. Together, these pipeline facilities are estimated to have a taxable value of \$162,600,000.

The pipeline facilities in question are presently taxed by the State of Alaska at the rate of 20 mills (see AS 43.56.010). If the annexation were approved by the Local Boundary Commission and the First Session of the Sixteenth Legislature, the FNSB could also tax the property beginning January 1, 1990. Under the present rates, the FNSB would tax the property at 12.243 mills. At the present value, the FNSB tax on the subject property would generate \$1,990,712 in annual revenues for the Borough.

Taxes levied by the FNSB against the pipeline facilities would be applied as a credit to the taxes levied by the State. In effect, this would reduce the State's tax levy on the pipeline facilities in question to 7.757 mills. Consequently, annual revenues to the State would be reduced (under the present values) by \$1,990,712.

Major policy questions raised by the proposal consist of the following:

1. Because the territory proposed for annexation is uninhabited, the "extension of services" to it would cost the FNSB little or nothing. Yet, the FNSB would receive nearly \$2 million in additional annual revenues at the direct expense of the State. Is that good public policy?
2. Would the annexation diminish the viability of a potential future borough in the adjacent region?
3. Is the annexation warranted?

These policy issues take on added importance when one considers that the decision reached here could serve as a precedent in dealing with other potential annexation proposals. For example, last year the Matanuska-Susitna Borough contemplated (but ultimately decided not to pursue) a proposal with similar characteristics. That proposal resembles the current one in that it also encompassed a sparsely populated area with high property values stemming from the pipeline and pump stations. However, there may also be significant differences between the FNSB proposal and the one contemplated by the Matanuska-Susitna Borough. These may include differences in the social and cultural compatibilities between the existing municipality and the territory proposed for annexation. Thus, the Department's position with respect to this proposal may not necessarily extend to another proposal which shares some of the characteristics of the FNSB proposal. Each proposal would be carefully and fully examined on its own merits.

IS THIS ANNEXATION PROPOSAL GOOD PUBLIC POLICY?

To address the first policy question, it is important to put the matter in perspective. According to Volume XXVII of Alaska Taxable (DCRA, January, 1988), there are \$18,259,909,850 in oil and gas properties throughout the state which are taxable under AS 43.56. Of this amount, 73.65% (\$13,447,841,030) are within existing boroughs. In addition, 7.65% (\$1,396,012,940) of the properties are within cities in the unorganized borough which levy property taxes. Thus, a total of 81.3% of the oil and gas properties taxable by the State presently lie within the jurisdiction of taxing municipalities.

With such an overwhelming percentage of the total oil and gas properties already within the boundaries of political subdivisions of the State, the question of adding another eighty-nine one-hundredths of one percent (0.0089) tends to

minimize the policy implications of this particular proposal. Nonetheless, additional consideration of this question is warranted. A couple of analogies will aid in the further examination of this matter.

Analogy number 1. The policy implications of this annexation proposal would seem to be somewhat analogous to the question of whether it would be good policy to approve the formation of any new borough having jurisdiction over a portion of the pipeline.

Five regions of the unorganized borough presently have substantial pipeline properties passing through them. These regions are: Prince William Sound, Copper River Basin, Delta-Greely, Yukon-Koyukuk and Yukon Flats. Each of these regions has either completed or is undergoing a study to examine the feasibility of forming a new borough. None of the studies contemplate the exclusion of the pipeline from the potential boroughs. To do so would create two classes of "pipeline boroughs", those which could tax the pipeline and those which could not.

Analogy number 2. The second analogy is somewhat more involved. It concerns the extent to which municipalities generate revenues from truly local sources.

A limited number of municipalities in the state have access to particular sources of funds which are not generally available to all municipalities. For example, less than 5% of the State's political subdivisions have the capacity to levy taxes on oil and gas properties; 34% receive a share of the taxes which the State levies on fisheries; and less than 3% receive revenues under the National Forest Receipts program. For purposes of this discussion, revenues from such sources are not considered locally generated revenues. Stated succinctly, the analogous question here is whether the State should authorize the creation of any municipality or the expansion of any municipal boundaries if that municipal government is not going to contribute substantially to its own operation through truly locally generated revenues.

In the case at hand, the annexation would allow the FNSB to increase its "non-locally" generated revenues by nearly \$2 million annually while it incurs virtually no increase in the cost of providing services. The State would lose \$2 million in annual revenues and would realize no savings as it might if the area were inhabited (e.g. through the transfer of education services from the regional educational attendance area to the municipal school district).

To address this analogous question, it is appropriate to begin with an examination of the revenue generating efforts of the FNSB. Based upon figures presented in the petition, the

Borough will collect an estimated \$37,098,850 in taxes on real property this year. Of that, 17.8% (\$6,594,751) will be collected from taxes levied on pipeline properties ("non-local") and the remaining 82.2% (\$30,504,099) will be collected from taxes levied on other private properties within the Borough. If the proposed annexation were presently in effect, the level of property tax revenues generated from the pipeline would increase from 17.8% to 22.0% of total tax revenues. The Borough would thus have collected some \$8,585,463 in taxes on the pipeline. Pipeline tax revenues (non-local) would equal approximately \$117 per capita while taxes on other properties stand at nearly \$415 per capita.

Having examined the revenue generating efforts of the FNSB, it is appropriate to attempt to draw comparisons with other municipalities in the state. One measure of the revenue generating efforts of municipalities is the "mill rate equivalent" determination which is developed by the Department for purposes of administering the State Revenue Sharing program. Unfortunately, for purposes of this discussion, the "mill rate equivalent" does not differentiate between taxes on the pipeline and other taxes. Nonetheless, it is useful to note that the mill rate equivalent of the FNSB (combined areawide and non-areawide) is greater than 58% of the municipalities which received Revenue Sharing in the most recent fiscal year (including the Municipality of Anchorage, the Kenai Peninsula Borough, the Matanuska-Susitna Borough, the Northwest Arctic Borough and the Haines Borough). From this it can be concluded that the FNSB compares favorably with most municipalities in the extent to which it contributes in support of local services.

Turning more directly to the question of the extent to which municipalities generate revenues from truly local sources, it is not difficult to find examples where the efforts of other municipalities are far less than those of the FNSB. For example, one small city incorporated in 1983 recently received \$179,267 in annual State shared business fisheries taxes. The city in question levies no taxes, thus the city relies virtually 100% on "non-local" funds (vs. 22% in post annexation revenues for the FNSB). The State shared business fisheries taxes for that city amount to \$1,358 per capita (vs \$117 per capita in post annexation pipeline taxes for the FNSB).

From this it is concluded that any suggestion that it is poor policy to approve the subject annexation proposal may be analogous to concluding that it would also be poor policy to approve the formation of any municipality which would receive non-local funds amounting to more than 17.8% of total revenues or \$89 per capita (the approximate current levels for the FNSB).

In conclusion, the Department does not suggest that, when viewed narrowly, it is necessarily "good public policy" to allow the FNSB to increase its annual revenues by some

\$2 million (at a direct cost and without benefit to the state). However, because so many more extreme examples of such circumstances abound throughout the state, the Department feels strongly that it would be highly inappropriate to deny the subject annexation proposal because of this narrowly viewed policy concern.

Both the Department and the Local Boundary Commission have acknowledged the need to reexamine funding programs for local governments in Alaska in an effort to provide greater equity (see: draft LBC Statement on Borough Government in Alaska). Until such concerns are addressed on a comprehensive basis, the Department believes that "policy concerns" of the nature described should not be applied in this instance to the exclusive detriment of the FNSB. This annexation proposal affords the Local Boundary Commission with an excellent opportunity to bring many of its concerns and perspectives about borough government to the attention of the legislature and others.

WOULD THE ANNEXATION DIMINISH THE VIABILITY OF A POTENTIAL FUTURE BOROUGH IN THE ADJACENT REGION?

Simply put, the answer is no. The territory proposed for annexation is presently located within the Yukon Flats Regional Educational Attendance Area. At the beginning of this year, the Department reported that the Yukon Flats REAA had the greatest level of taxable property of any unincorporated region of the state (see p. 5 Regional Government Study, DCRA, January, 1988). The value of taxable property in that region (measured as value per student) was reported to be in excess of 5 times that of the average of all of the existing boroughs in the state (even excluding the North Slope Borough whose value is disproportionately high). On the other hand, the value of taxable property in the FNSB was found to be 14.9% below the average.

Adjusting the figures in that report to account for the value of the pipeline property in question would still leave the Yukon Flats with a level of taxable property per student second only to the North Slope Borough. The level of property would remain more than five times that of the average of existing boroughs (again, exclusive of the North Slope Borough). The value in the FNSB would still be nearly 12% below that of the average of all existing boroughs.

Further, it should be noted that the value of property in the Yukon Flats region is so great that State law (AS 29.45.090) would preclude a borough in that region from taxing all of the property. The law would limit a borough tax to a maximum of \$311,047,897. Recent estimates place the value of property in that region at \$805,000,000. Even if the annexation were to occur, the area would have \$642,400,000 -- more than twice as much property as it could legally tax under the law.

Thus, it can be concluded that the annexation would not adversely affect the viability of a borough in the adjacent region.

IS THE ANNEXATION WARRANTED?

The petition indicates no particularly pressing need to extend specific services to the area. Indeed, the area is uninhabited. There are, however, an estimated 36 individuals employed at pump station number 7. Although documentation of the places of residence of these workers is unavailable, it is believed that a majority of the workers live within the boundaries of the FNSB (Source: petitioner's representative).

Technically, if the annexation were to be approved, the Borough would extend all of its areawide and non-areawide powers and services to the territory. These consist of: education, planning, platting, zoning, elections, assessment and collection of taxes, emergency medical services, parks and recreation, animal control, libraries, air quality control, solid waste disposal, flood control (Chena River only), economic development, and transportation.

Essentially, the annexation proposal boils down to an attempt by the FNSB to expand its tax base in support of the above services which it provides to the estimated 73,540 individuals residing within its boundaries. From the previous discussion it has been shown that the FNSB, through its 12 mill tax on real property, already contributes substantially in support of local services. It has also been shown that the FNSB tax base is significantly less than the average of other existing boroughs (and would remain so even after the annexation).

If the benefit of the annexation would be directed at reducing property taxes, its effect would be limited to a reduction of less than six-tenths of one mill. If, on the other hand, the FNSB chose to use the additional proceeds to support local services, the funds would be vital in offsetting recent and anticipated future reductions in State shared revenues.

All of these things considered, the Department believes that the annexation proposal has merit. Readers are urged to review the complete report on this matter for further analysis of the circumstances on which the Department has based its support for this proposal.

Having concluded the annexation proposal has merit, it is appropriate to examine the boundaries of the territory proposed for annexation. It should be noted here that the Commission has the discretion to approve the petition as submitted, reject the petition entirely, or amend the boundaries of the territory proposed for annexation. With respect to the latter, the LBC may expand or reduce the territory proposed for annexation.

In preparing the subject petition, several alternative boundaries were considered. These ranged from the present submission to a much larger area encompassing the "historic interests" of the Fairbanks region. The latter follows the Yukon River along the

north (from Tanana lying 100 miles west of the existing boundaries to the Canadian border lying 85 miles east of the existing boundaries) and follows the Alaska Range along the south (see Exhibit B - map of alternative boundaries considered).

After careful evaluation, the Assembly selected the boundaries of the current proposal. In doing so, the petitioner's representative has indicated that "it was clear the members (of the Assembly) did not want to include areas of existing concentrated or organized populations such as Livengood or Delta."

It is difficult to conclude whether the annexation of the territory proposed by the FNSB would establish "optimum boundaries" for the Borough. Given problems with the present structure for the delivery of regional services throughout the state (see: LBC draft Statement on Borough Government in Alaska) the Assembly's position is understandable. If the FNSB had attempted to annex populated areas, opposition to the proposal would likely have been much more formidable. In such an event, the chances of success would likely have been diminished.

Thus, given the evidence before the Department, it appears that the boundaries of the annexation proposal are reasonable. If this region (the existing Borough and the area proposed for annexation) were incorporating today for the first time, the Department would find the boundaries to be appropriate.

All things considered then, the Department recommends that the Local Boundary Commission approve the annexation proposal without amendment.

COMPLETE REPORT

INTRODUCTION

State laws establish the procedures for effecting annexations. They also provide the standards which the Alaska Local Boundary Commission (hereinafter the LBC or the Commission) must use in making its decision on any petition for annexation. The procedures, the selected annexation process, the standards for annexation and the role of the LBC are summarized below.

A. 1. ALASKA LOCAL BOUNDARY COMMISSION

The LBC is the state body whose responsibilities include reviewing and acting upon petitions for annexation. The Commission must decide whether each proposal meets the standards for annexation.

While the Department of Community and Regional Affairs (hereinafter the Department) provides technical and administrative support to the LBC, the Commission is completely independent of the Department and all other state agencies. It is not required to agree with the recommendations made in this report.

The LBC consists of five members appointed by the Governor. One member is appointed from each of the four judicial districts of the state, the fifth member is appointed at large. Commission members serve without compensation. The present members are:

C.B. BETTISWORTH, CHAIR, SERVING AT LARGE
JOSEPHINE ANDERSON, 1ST JUDICIAL DISTRICT
BEN NAGEAK, 2ND JUDICIAL DISTRICT
LAMAR COTTEN, 3RD JUDICIAL DISTRICT
SHELLEY DUGAN, VICE CHAIR, 4TH JUDICIAL DISTRICT

A. 2. STANDARDS FOR ANNEXATION OF CONTIGUOUS TERRITORY

State law requires that certain standards be met before an area may be annexed to a borough. To approve annexation of contiguous territory, the LBC must determine that the borough is "capable of extending and willing to extend services to the annexed area; . . . if possible, areawide and non-areawide borough services shall be extended to the annexed area immediately" (19 AAC 10.200).

Additionally, the Commission must be satisfied that the action meets one or more of the following eight standards (19 AAC 10.190(a)) to the extent that annexation is warranted:

1. The contiguous territory is totally surrounded by the borough's boundaries.
2. The land in the territory is wholly owned by the borough.

3. The territory is in need of municipal services which the borough can provide more efficiently than another municipality or the state.
4. There is a reasonable likelihood that growth and development will occur within the territory and that annexation of the territory will enable the borough to plan for and control that development.
5. The health, welfare, or safety of residents of the borough is endangered by conditions existing or developing in the territory and annexation will enable the borough to remove or relieve the conditions.
6. The extension into the territory of borough services or facilities is necessary to enable the borough to provide adequate service to borough residents and it is impossible or impractical for the borough to extend the facilities or services unless the territory is within the borough's boundaries.
7. Residents or property owners within the territory receive or may be reasonably expected to receive, directly or indirectly the benefits of borough government without commensurate property tax contributions, whether borough services are rendered or received inside or outside the territory.
8. The annexation is otherwise necessary to accomplish a valid public purpose.

Further, the law requires that the LBC must find that the post annexation boundaries of the borough would conform substantially to all of the standards set in law for the formation of boroughs (19 AAC 10.220 and AS 29.05.031). These consist of:

1. The population must be interrelated and integrated as to its social, cultural, and economic activities.
2. The population must be large and stable enough to support borough government.
3. The boundaries must conform generally to natural geography and must include all areas necessary for full development of municipal services.
4. The economy of the area must include the human and financial resources capable of providing municipal services.

5. The land, water and air transportation facilities allow the communication and exchange necessary for the development of integrated borough government.

A. 3. AVAILABLE PROCEDURES

State law (AS 29.060.040 and 19 AAC 10.450 - 19 AAC 10.790) outlines the processes by which municipal boundaries may be altered. For annexations of contiguous territory, a borough has five available procedures. They are:

Local Action/Election - The LBC first approves a petition for annexation. Registered voters residing within the territory proposed for annexation then vote on the question. Owners of property within the area proposed for annexation who are not residents of the area are not entitled to vote. Individuals residing within the existing boundaries of the borough are also prohibited from voting on this matter. Annexation is effected by majority approval of those voting on the proposed action [AS 29.06.040(c)(1)].

Local Action/Municipally Owned Property - The municipality which owns all of the property within an area initiates annexation by passage of an ordinance. The annexation is effective upon approval by the LBC [AS 29.06.040(c)(2)].

Local Action/100% Of Voters and Property Owners - All individuals who own property (including non-residents) as well as all registered voters (including those who do not own property) who reside within the area, petition the municipal government for annexation. The municipality adopts an ordinance authorizing the annexation which becomes effective upon approval by the LBC [AS 29.06.040(c)(3)].

Step Annexation - The LBC approves an annexation petition. The registered voters of the area proposed for annexation vote on the question. If passed by a majority of the voters who vote on the issue, the proposed action is reviewed by the state legislature in the same manner provided below. This method of annexation is to be used when services are to be gradually extended to the annexed area over a period not to exceed five years [AS 44.47.567(b)(2)].

Legislative Review - This requires approval of the petition by the LBC and subsequent tacit approval of the petition by the Alaska State Legislature [AS 29.06.040(b)].

INTRODUCTION

In accordance with 19 AAC 10.600, the LBC may consider all methods of annexation to utilize the most appropriate for each petition. The Department believes that the legislative review method proposed by the petitioner is the most appropriate for the subject proposal.

B. 1. LEGISLATIVE REVIEW AS THE MOST APPROPRIATE

As demonstrated below, alternative methods of annexation are unavailable. Therefore, the legislative review method is determined to be the appropriate process.

Local Action/Election - This process is not available because there are no voters in the territory proposed for annexation.

Local Action/Municipally Owned Property - This process is unavailable since the Fairbanks North Star Borough does not own the territory proposed for annexation.

Local Action/100% of Voters and Property Owners - This process is not available because property owners have not petitioned the Borough for annexation (there are no resident voters).

Step Annexation - This process is reserved for annexations which anticipate gradual extension of municipal services to the area over a period not greater than five years. This process requires the approval of voters in the area. Since there are no voters, the process is unavailable.

B.2. LEGISLATIVE REVIEW PROCESS

Petitions for legislative review annexations are processed in accordance with AS 29.06.040 and 19 AAC 10.185-220 and 19 AAC 10.450-620. The process is summarized as follows.

1. A petition with supporting brief is submitted to the Department.
2. The form and content of the petition are reviewed by the Department to determine whether they are substantially proper and correct.
3. If the form and content of the petition are found to be substantially proper and correct, submission of the petition is publicly noticed by the petitioner.
4. The Department prepares a report and recommendation to the LBC on the proposed annexation.
5. The LBC conducts a publicly noticed hearing in or near the territory proposed for annexation. This requirement may also be fulfilled by the LBC conducting a hearing via teleconference.

6. Within 90 days of the public hearing, the LBC renders a decision to accept or reject the petition or to accept the petition but amend the boundaries of the territory.
7. If approved by the Commission, and in compliance with the Federal Voting Rights Act, the annexation proposal is submitted to the U.S. Department of Justice for tacit approval.
8. A recommendation for the annexation is submitted to the state Legislature within ten days of the beginning of the next regular legislative session.
9. If not specifically rejected by a majority of the members of the House and Senate within 45 days of submission, the annexation is approved.

The earliest that the proposed annexation could be accomplished is March, 1989.

INTRODUCTION

There are a number of activities which have preceded the preparation of this report. These events are briefly profiled in this section as well as the rationale for the proposal.

C. 1. PROCEEDINGS TO DATE

On August 25, 1988, the Assembly of the Fairbanks North Star Borough adopted Resolution No. 88-122 authorizing the submission of the petition now before the LBC. On September 28, 1988, the Department received the petition. Following a review of the petition, the Department notified the petitioner's representative on October 3, 1988, that the form and content of the petition were found to be in substantial compliance with applicable laws and regulations.

The petitioner published notice of the filing of the petition in the Fairbanks Daily News-Miner on October 25, November 1 and November 4, 1988.

The LBC has scheduled its hearing on this matter for 1:00 p.m., Friday, November 18, 1988 at the Fairbanks North Star Borough Assembly Chambers. Notice of the hearing was published in the Fairbanks Daily News-Miner and Anchorage Times on November 1, 2 and 3. Notice was also published in the Alaska Administrative Journal. In addition, a copy of the notice was mailed to all parties as required by law and others which the Department believes may be interested in this matter.

C. 2. REASONS FOR ANNEXATION

The petition indicates no particularly pressing need to extend specific services to the area. There are, however, an estimated 36 individuals employed at pump station number 7. Although documentation of the places of residence of these workers is unavailable, it is believed that a majority of the workers live within the boundaries of the FNSB (Source: petitioner's representative).

Technically, if the annexation were to be approved, the Borough would extend all of its areawide and non-areawide powers and services to the territory. These consist of: education, planning, platting, zoning, elections, assessment and collection of taxes, emergency medical services, parks and recreation, animal control, libraries, air quality control, solid waste disposal, flood control (Chena River only), economic development, and transportation.

Essentially, the annexation proposal boils down to an attempt by the FNSB to expand its tax base in support of the above services which it provides to the estimated 73,540 individuals residing within its boundaries.

INTRODUCTION

This section of the report establishes the "setting" for the proposed annexation. The following is a brief description of the territory proposed for annexation. Relevant information concerning the Fairbanks North Star Borough is also provided.

D. 1. AREA PROPOSED FOR ANNEXATION

The area proposed for annexation comprises 216 square miles (see Exhibit A - map of territory proposed for annexation). The following are the outstanding characteristics of the territory proposed for annexation.

- ° Small size. In relative terms, the magnitude of the proposed expansion is very modest. The annexation would increase the size of the FNSB by less than 3%.
- ° Limited opposition. To date, the Department of Community and Regional Affairs has received an indication of opposition to the annexation from only one individual. The statement in opposition consists of a two sentence letter indicating that the opposition is due to the fact that "the borough is big enough as it is now".
- ° Limited private ownership of land. According to the FNSB, "all six townships (216 square miles or 138,240 acres) are either State tentative approved or are conveyed to the State. There appear to be about three dozen 40 acre mining claims (and) about three or four U.S. Surveys which would indicate homesites, homesteads or another private interest". Assuming there were four U.S. Surveys, each comprised of 40 acres, these (along with the mining claims) would total approximately 1,600 acres or 1.2% of the total area proposed for annexation.
- ° Absence of residents. According to the FNSB, the area proposed for annexation is uninhabited.
- ° Substantial tax base. The area proposed for annexation includes approximately 16 miles of the trans-Alaska oil pipeline and pump station number 7. Together, these facilities are estimated to have a taxable value of \$162,600,000.

D. 2. FAIRBANKS NORTH STAR BOROUGH

The Fairbanks North Star Borough was incorporated on January 1, 1964 under the provisions of the Mandatory Borough Act. An earlier effort to form a voluntary borough was rejected by the voters by a margin of nearly 3 to 2.

Originally, the boundaries of the Borough were coterminous with those of the former Fairbanks Election District 19 (see Exhibit C - map of former boundaries of the FNSB).

Two days after the Borough was incorporated, the LBC held a hearing in Fairbanks to consider major changes to the Borough's boundaries. As a consequence, nearly three-quarters of the territory within the Borough (an estimated 17,082 square miles) were detached from the southern portion of the Borough. The detached area included Delta Junction, Tok and a number of smaller communities. In approving the detachment the Commission noted that

"The Delta Junction area is tied economically and socially to the Fairbanks area. These ties, however, are not strong enough, at least at this time, to warrant, in light of the almost unanimous opposition of Delta residents, the inclusion of the area within the same borough as Fairbanks.

The area south and east of Delta Junction is not closely tied to the greater Fairbanks trading area and cannot at this time be efficiently provided with borough services from Fairbanks." (source: LBC report to the Second Session of the Third State Legislature).

At the same time, the Commission approved the expansion of the Borough's boundaries to the west to encompass an additional 1,333 square miles, more or less. The purpose of the expansion was to ensure that the Borough could address "future flood control (by including) the drainage areas of the Chatanika River".

Following the tacit approval of those boundary changes by the Second Session of the Third Legislature in March of 1964, the perimeter boundaries of the Borough were set where they remain today.

According to the petitioner, the population of the Borough today stands at 73,540. The most recent official population figures of the Department indicate that the population of the Borough is 75,079. In either case, the Fairbanks North Star Borough is the second most populous municipal government in Alaska.

The total value of taxable property in the Borough stands at \$3,130,154,477. Of that, \$538,654,860 (17.2%) consists of oil and gas exploration, production and transportation properties taxable under AS 43.56.

The Borough levies an areawide tax on real property at the rate of 11.178 mills. The Borough levies an additional 1.065 mill tax on real property outside of the Cities of Fairbanks and North Pole.

INTRODUCTION

State statutes and administrative regulations of the Local Boundary Commission establish a number of standards which must be applied in judging the merits of any proposal for the annexation of territory to a borough. This section of the report lists each of these standards (phrased as a question and printed in bold capital letters), followed by a discussion of current conditions which apply under the standard and the Department's analysis of the degree to which the standard is satisfied by the proposal.

To approve the annexation, the LBC must determine that one or more of the first eight standards is satisfied to the extent that annexation is warranted. It is mandatory that all of the remaining standards (9th - 14th) be satisfied. It is within the Commission's discretion to approve the petition as submitted, reject the petition entirely, or amend the boundaries of the territory proposed for annexation. With respect to the latter, the LBC may expand or reduce the territory proposed for annexation.

E. 1. IS THE CONTIGUOUS TERRITORY TOTALLY SURROUNDED BY THE BOROUGH'S BOUNDARIES?

The territory proposed annexation is not an enclave. Therefore, this standard is not met.

E. 2. IS THE LAND IN THE TERRITORY WHOLLY OWNED BY THE BOROUGH?

None of the land in the territory proposed for annexation is owned by the Borough. Therefore, this standard is not met.

E. 3. IS THE TERRITORY IN NEED OF MUNICIPAL SERVICES WHICH THE BOROUGH CAN PROVIDE MORE EFFICIENTLY THAN ANOTHER MUNICIPALITY OR THE STATE?

The Fairbanks North Star Borough exercises the following powers on an areawide or non-areawide basis: education, planning, platting, zoning, elections, assessment and collection of taxes, emergency medical services, parks and recreation, animal control, libraries, air quality control, solid waste disposal, flood control (Chena River only), economic development, and transportation.

Because the subject territory is uninhabited, the demand for services is limited. The petitioner's representative expressed the belief that solid waste generated at pump station number 7 is probably taken to the Borough's solid waste site for disposal. Further, it was indicated by the petitioner's representative that if the need arose, the Borough would

provide emergency services to the pump station outside its boundaries. (It is acknowledged that the Alyeska Pipeline Service Company already provides some level of independent fire, security and medivac support to its employees at the pump station.)

Although the Borough does not presently exercise flood control on the Chatanika River, the area proposed for annexation may be important to future flood control efforts if it begins to do so. As was noted in Section D.2. of this report, the area immediately south of the territory proposed for annexation was added to the Borough's boundaries in 1964 to enable it to control flooding in the Chatanika River drainage.

All things considered, there are indications that the territory has limited needs for services. Neither the State nor another municipality is in a better position to provide those services. Thus, it is concluded that this standard is met to an extent.

E. 4. IS THERE A REASONABLE LIKELIHOOD THAT FUTURE GROWTH AND DEVELOPMENT WILL OCCUR WITHIN THE TERRITORY AND THAT ANNEXATION OF THE TERRITORY WILL ENABLE THE BOROUGH TO PLAN FOR AND CONTROL THAT DEVELOPMENT?

The Department is unaware of any planned or pending development in the area. Should a trans-Alaska gas pipeline ever be constructed, it is likely that it would be built near and parallel to the oil pipeline. Therefore, this area has the potential for future development. However, because the potential for such development is so speculative, it is difficult to conclude that this standard has been met.

E. 5. IS THE HEALTH, WELFARE OR SAFETY OF BOROUGH RESIDENTS ENDANGERED BY CONDITIONS EXISTING OR DEVELOPING IN THE TERRITORY AND WILL ANNEXATION ENABLE THE BOROUGH TO REMOVE OR RELIEVE THESE CONDITIONS?

The Fairbanks North Star Borough has offered no evidence that the health, welfare or safety of its residents is endangered because of conditions within the area proposed for annexation. Likewise, the Department is unaware of circumstances which apply in this situation.

E. 6. IS THE EXTENSION INTO THE TERRITORY OF BOROUGH SERVICES OR FACILITIES NECESSARY TO ENABLE THE BOROUGH TO PROVIDE ADEQUATE SERVICE TO BOROUGH RESIDENTS, AND IS IT IMPOSSIBLE OR IMPRACTICAL FOR THE BOROUGH TO EXTEND THE FACILITIES OR SERVICES UNLESS THE TERRITORY IS WITHIN THE BOROUGH'S BOUNDARIES?

The Fairbanks North Star Borough has presented no evidence that its petition satisfies this standard. Likewise, the Department is unaware of circumstances which apply in this situation.

E. 7. DO THE RESIDENTS OR PROPERTY OWNERS WITHIN THE TERRITORY RECEIVE OR CAN THEY BE REASONABLY EXPECTED TO RECEIVE, DIRECTLY OR INDIRECTLY, THE BENEFIT OF BOROUGH GOVERNMENT WITHOUT COMMENSURATE PROPERTY TAX CONTRIBUTIONS, WHETHER BOROUGH SERVICES ARE RENDERED OR RECEIVED INSIDE OR OUTSIDE THE BOROUGH?

This issue relates to the discussion in Section E.3. of this report concerning the need for services. To the extent that the solid waste generated at pump station number 7 is disposed of at the Borough's solid waste disposal site, it can be argued that services are provided without support from the property owners. Too, the availability of emergency services from the Borough would add to the claim of such support. (Again, the Alyeska Pipeline Service Company presently provides some level of independent fire, security and medivac support.)

However, any claim that this standard is satisfied must be kept in perspective. The cost of any current and future services is relatively insignificant when compared to the revenue generating potential of the area.

E. 8. IS THE ANNEXATION OTHERWISE NECESSARY TO ACCOMPLISH A VALID PUBLIC PURPOSE?

Both the Department and the Local Boundary Commission acknowledge great inequities regarding funding for local governments in Alaska and the delivery of services in general. This issue was examined at length in the Department's Regional Government Study published in January of this year. The matter will also be addressed in the Statement on Borough Government in Alaska which the Local Boundary Commission is presently developing.

Essentially, this annexation proposal can be viewed as a unilateral effort on the part of the Fairbanks North Star Borough to partially offset some of those inequities. More specifically, the annexation proposal is an attempt by the FNSB to expand its tax base in support of the services which it provides to the estimated 73,540 individuals residing within its boundaries.

Presently, the Borough levies an areawide tax of 11.178 mills on real property. Based upon figures presented in the petition, the Borough will collect an estimated \$34,988,867 in areawide taxes. These funds are used to support education, planning, tax assessment and collection, and general administration. However, the vast majority of the funds are used for schools. It is estimated that 73% of the areawide taxes will be spent in direct support of education within the Borough. Such direct expenditures consist of \$22,800,000 as the local contribution under the public school foundation formula, \$2,266,250 for debt service (total school debt service for the year is projected to be \$17,383,800 of which \$15,117,550 will be reimbursed by the State) and \$566,000 in cash expenditures for school capital projects (source: FNSB Finance Director).

According to the petition, the Borough levies an additional 1.065 mills for services outside of cities (non-areawide). Services supported by this tax include emergency services, economic development and solid waste disposal. It is projected that the Borough will collect \$2,109,983 in non-areawide taxes.

Thus, it is projected that the Borough will collect \$37,098,850 in areawide and non-areawide taxes on real property this year. Of that, 17.8% (\$6,594,751) will be collected from taxes levied on pipeline properties and the remaining 82.2% (\$30,504,099) will be collected from taxes levied on other private properties within the Borough. If the proposed annexation were presently in effect, the level of property tax revenues generated from the pipeline would increase from 17.8% to 22.0% of total tax revenues. The Borough would thus have collected some \$8,585,463 in taxes on the pipeline.

The efforts of the Fairbanks North Star Borough to support its local services compares favorably with the majority of other municipalities in Alaska. One measure of comparison is the "mill rate equivalent" determination which is developed by the Department for purposes of administering the State Revenue Sharing program. The mill rate equivalent of the Borough (combined areawide and non-areawide) is greater than 58% of the municipalities which received Revenue Sharing in the most recent fiscal year (including the Municipality of Anchorage, the Kenai Peninsula Borough, the Matanuska-Susitna Borough, the Northwest Arctic Borough and the Haines Borough).

One of the reasons that the Borough's tax effort is relatively high is the fact that its tax base is lower than the average of other boroughs. At the beginning of this year, the Department reported that the value of taxable property in the Borough (measured as value per student) was 14.9% below the average of all of the existing boroughs in the state (even excluding the North Slope Borough whose value is disproportionally high) (see p. 5 Regional Government Study, DCRA, January, 1988). Adjusting the figures in that report to account for the value of the pipeline property in question would still leave the Borough nearly 12% below that of the average of all existing boroughs.

Of course, there are also a number of other areas of the state which escape any taxes whatsoever. For example, of the 55 school districts in the state, 22 are not required to make local contributions in support of their schools. These 22 districts are comprised of the regional educational attendance areas within the unorganized borough. The student population in these 22 districts amounts to 12.7% of the total student population in the state.

If the benefit of the annexation would be directed at reducing property taxes, its effect would be limited to a reduction of less than six-tenths of one mill. If, on the other hand, the Fairbanks North Star Borough chooses to use the additional proceeds to support local services, the funds would be vital in offsetting recent and anticipated future reductions in State shared revenues.

All of these things considered, the Department believes that the annexation proposal has merit. The Department concludes that the attempt to achieve greater parity in the delivery of services is a valid public purpose for the annexation.

E. 9. IS THE FAIRBANKS NORTH STAR BOROUGH CAPABLE OF AND WILLING TO EXTEND AREAWIDE AND NON-AREAWIDE SERVICES TO THE AREA PROPOSED FOR ANNEXATION?

As indicated in Section E.3. of this report, the need for services in the area proposed for annexation is limited. The extension of areawide and non-areawide services to this territory would require little or no capital outlay by the Borough. Thus, it is concluded that the Borough is capable of and willing to extend services in compliance with this mandatory requirement.

E. 10. WOULD THE POPULATION WITHIN THE EXPANDED BOUNDARIES OF THE BOROUGH REMAIN INTERRELATED AND INTEGRATED AS TO ITS SOCIAL, CULTURAL, AND ECONOMIC ACTIVITIES?

Since the area proposed for annexation is uninhabited, the social, cultural and economic activities of the population of the Borough is unaffected by the annexation.

The area in question is relatively small in comparison to the Borough. The existing Borough boundaries are irregularly shaped and encompass 7,361 square miles. At its widest points the Borough is some 150 miles across and 80 miles long. By comparison, the territory proposed for annexation is a rectangle 18 miles wide by 12 miles long. The 216 square miles encompassed by the proposal represents less than 3% of the total area of the Borough.

The social, cultural and economic characteristics of the territory proposed for annexation do not appear to be different from those of other sparsely populated sectors of the Borough. Thus, it is concluded that this mandatory standard has been satisfied.

E. 11. WOULD THE POPULATION WITHIN THE EXPANDED BOUNDARIES OF THE BOROUGH REMAIN LARGE AND STABLE ENOUGH TO SUPPORT BOROUGH GOVERNMENT?

Again, since the area proposed for annexation is uninhabited, the size and stability of its population would not be affected by the annexation. Thus, it is concluded that this mandatory standard is satisfied.

E. 12. WOULD THE EXPANDED BOUNDARIES OF THE BOROUGH CONFORM GENERALLY TO THE NATURAL GEOGRAPHY AND STILL INCLUDE ALL AREAS NECESSARY FOR FULL DEVELOPMENT OF MUNICIPAL SERVICES?

The existing boundaries of the Borough in the area adjacent to the territory proposed for annexation follow township and range lines. This annexation would simply extend those lines twelve miles to the north and 18 miles to the east.

In preparing the subject petition, several alternatives boundaries were considered. These ranged from the present submission to a much larger area encompassing the "historic interests" of the Fairbanks region. The latter borders the Yukon River along the north (from Tanana lying 100 miles west of the existing boundaries to the Canadian border lying 85 miles east of the existing boundaries) and follows the Alaska Range along the south (see Exhibit B - map of alternative boundary considerations).

After careful consideration, the Fairbanks North Star Borough Assembly selected the boundaries of the current proposal. The petitioner's representative has indicated that "it was clear the members (of the Assembly) did not want to include areas of existing concentrated or organized populations such as Livengood or Delta."

It is difficult to conclude whether the annexation of the territory proposed would establish "optimum boundaries" for the Borough. Given problems with the present structure for the delivery of regional services throughout the state (see: LBC draft Statement on Borough Government in Alaska) the Assembly's position to avoid populated areas is understandable. If the Borough had attempted to annex populated areas, opposition to the proposal would likely have been much more formidable. In such an event, the chances of success would likely have been diminished.

Thus, given the evidence before the Department, it appears that the boundaries of the annexation proposal are reasonable. If this region (the existing Borough and the area proposed for annexation) were incorporating today for the first time, the Department would find the boundaries to be appropriate.

E. 13. WOULD THE ECONOMY OF THE EXPANDED BOROUGH STILL INCLUDE THE HUMAN AND FINANCIAL RESOURCES CAPABLE OF PROVIDING MUNICIPAL SERVICES?

Again, because there is no population change, the annexation would have no effect on the human resources of the Borough. With respect to the financial resources of the Borough, as discussed in Section E.8. of this report, the proposed annexation enhances the extent to which this standard is met. As noted in that earlier discussion, the Borough's tax base is substantially less than the average of other boroughs in the state. This annexation would bring the Borough's tax base more in line with the average of the other boroughs. The Department concludes this standard is satisfied.

E. 14. WOULD THE LAND, WATER AND AIR TRANSPORTATION FACILITIES OF THE EXPANDED BOROUGH STILL ALLOW THE COMMUNICATION AND EXCHANGE NECESSARY FOR THE DEVELOPMENT OF INTEGRATED BOROUGH GOVERNMENT?

This annexation will not affect the ability of residents of the Fairbanks North Star Borough to communicate and interrelate. Therefore, this standard is considered to be satisfied.

INTRODUCTION

This section of the report addresses other considerations which the Department considers to be relevant to this matter. Included are important policy questions relating to the annexation and the impact that the annexation might have on the viability of a borough in the adjacent Yukon Flats region.

F. 1. IS THE ANNEXATION "GOOD POLICY"?

As noted earlier, the territory proposed for annexation includes approximately 16 miles of the trans-Alaska oil pipeline and pump station number 7. Together, these pipeline facilities are estimated to have a taxable value of \$162,600,000.

The pipeline facilities in question are presently taxed by the State of Alaska at the rate of 20 mills (see AS 43.56.010). If the annexation were approved by the Local Boundary Commission and the First Session of the Sixteenth Legislature, the Fairbanks North Star Borough could also tax the property beginning January 1, 1990. Under the present rates, the FNSB would tax the property at 12.243 mills. At the present value, the FNSB tax on the subject property would generate \$1,990,712 in annual revenues for the Borough.

Taxes levied by the FNSB against the pipeline facilities would be applied as a credit to the taxes levied by the State. In effect, this would reduce the State's tax levy on the pipeline facilities in question to 7.757 mills. Consequently, annual revenues to the State would be reduced (under the present values) by \$1,990,712.

Because the territory proposed for annexation is uninhabited, it would cost little or nothing for the Borough to extend services to the area. Yet, the Borough would receive nearly \$2 million in additional annual revenues at the direct expense of the State. The Department anticipates that some may question this annexation proposal based on the contention that such circumstances represent "poor State policy".

To address this anticipated concern, it is important to put the matter in perspective. According to Volume XXVII of Alaska Taxable (DCRA, January, 1988), there are \$18,259,909,850 in oil and gas properties throughout the state which are taxable under AS 43.56. Of this amount, 73.5% (\$13,447,841,030) are within existing boroughs. In addition, 7.65% (\$1,396,012,940) of the properties are within cities in the unorganized borough which levy property taxes. Thus, a total of 81.3% of the oil and gas properties taxable by the State presently lie within the jurisdiction of taxing municipalities.

The following table identifies the municipalities in Alaska in which the oil and gas properties are located. The municipalities are ranked in descending order of value of such property expressed as a percentage of total "full and true value" of taxable property. Values listed are as of January 1, 1987 (source: Alaska Taxable, DCRA, January, 1988).

<u>MUNICIPALITY</u>	<u>OIL AND GAS PROPERTY</u>	<u>OTHER TAXABLE PROPERTY</u>
North Slope Borough	\$12,300,358,720 (97.81%)	\$275,236,000 (02.19%)
City of Valdez	\$1,395,294,400 (89.14%)	\$170,040,400 (10.86%)
Kenai Peninsula Borough	\$509,188,830 (13.05%)	\$3,391,999,000 (86.95%)
Fairbanks North Star Borough	\$572,999,370 (12.85%)	\$3,886,652,800 (87.15%)
City of Whittier	\$279,960 (01.31%)	\$21,109,700 (98.69%)
City of Unalaska	\$438,580 (00.46%)	\$95,338,700 (99.54%)
Municipality of Anchorage	\$61,094,970 (00.43%)	\$13,865,126,000 (99.57%)
Matanuska-Susitna Borough	\$4,199,140 (00.14%)	\$2,902,677,440 (99.86%)

The value of the oil and gas property in the territory proposed for annexation represents a mere 0.89% of the total of such property in the state. With such an overwhelming percentage of the total oil and gas properties already within the boundaries of political subdivisions of the State (from a relative standpoint) the question of adding another eighty-nine one-hundredths of one percent diminishes the policy implications of this particular proposal to a level which is virtually inconsequential. Nonetheless, additional consideration of this question is warranted. A couple of analogies will aid in the further examination of this matter.

Analogy number 1. The policy implications of this annexation proposal would seem to be somewhat analogous to the question of whether it would be good policy to approve the formation of any new borough having jurisdiction over a portion of the pipeline.

Five regions of the unorganized borough presently have substantial pipeline properties passing through them. These regions are: Prince William Sound, Copper River Basin, Delta-Greely, Yukon-Koyukuk and Yukon Flats. Each of these regions have either completed or are presently undergoing studies to examine the feasibility of forming new boroughs. None of the studies contemplate the exclusion of the pipeline

from the potential boroughs. To do so would create two classes of "pipeline boroughs", those which could tax the pipeline and those which could not.

Analogy number 2. The second analogy concerns the extent to which municipalities generate revenues from truly local sources.

A limited number of municipalities in the state have access to particular sources of funds which are not generally available to all municipalities. For example, as shown in the preceding table, only 8 of the 161 municipalities in the state (less than 5%) have the authority to levy taxes on oil and gas properties. Another 34% are entitled to receive a share of the taxes which the State levies on fisheries; and less than 3% receive revenues under the National Forest Receipts program. For purposes of this discussion, revenues from such sources are not considered locally generated revenues. Stated succinctly, the analogous question here is whether the State should authorize the creation of any municipality or the expansion of any municipal boundaries if that municipal government is not going to contribute substantially to its own operation through truly locally generated revenues.

In the case at hand, the Fairbanks North Star Borough stands to increase its share of revenues generated from taxes levied on the pipeline from \$6,594,751 to \$8,585,463 (from 17.8% of total tax revenues to 22%). On a per capita basis, the pipeline taxes would jump from \$89.68 to \$116.75. Areawide and non-areawide taxes levied on other private properties within the Borough would generate \$30,504,099. On a per capita basis, this amounts to \$414.79.

It is not difficult to find examples of municipalities whose efforts to generate truly local funds are far less than those of the Fairbanks North Star Borough. For example, one small city incorporated in 1983 recently received \$179,267 in annual State shared business fisheries taxes. The city in question levies no taxes, thus the city relies virtually 100% on non-local funds (vs. a post annexation total of 22% for the FNSB). The State shared business fisheries taxes for that city amount to \$1,358 per capita (vs \$117 per capita in post annexation pipeline taxes for the FNSB).

From this it is concluded that any suggestion that it is poor policy to approve the subject annexation proposal may be analogous to concluding that it would also be poor policy to approve the formation of any municipality which would receive non-local funds amounting to more than 17.8% of total revenues or \$89.68 per capita (the current levels for the FNSB).

In conclusion, the Department does not suggest that, when viewed narrowly, it is necessarily "good public policy" to allow the FNSB to increase its annual revenues by some \$2 million (at a direct cost and without benefit to the state). However, because so many more extreme examples of such circumstances abound throughout the state, the Department feels

strongly that it would be highly inappropriate to deny the subject annexation proposal because of this narrowly viewed policy concern.

Both the Department and the Local Boundary Commission have acknowledged the need to reexamine funding programs for local governments in Alaska in an effort to provide greater equity (see: draft LBC Statement on Borough Government in Alaska). Until such concerns are addressed on a comprehensive basis, the Department believes that "policy concerns" should not be applied in this instance to the exclusive detriment of the FNSB. This annexation proposal affords the Local Boundary Commission with an excellent opportunity to bring many of its concerns and perspectives about borough government to attention of the legislature and others.

F. 2. WOULD THE ANNEXATION DIMINISH THE VIABILITY OF A POTENTIAL FUTURE BOROUGH IN THE ADJACENT REGION?

Simply put, the answer is no. The territory proposed for annexation is presently located within the Yukon Flats Regional Educational Attendance Area (REAA). At the beginning of this year, the Department reported that the Yukon Flats REAA had the greatest level of taxable property of any unincorporated region of the state (see p. 5 Regional Government Study, DCRA, January, 1988). The value of taxable property in that region (measured as value per student) was reported to be in excess of 5 times that of the average of all of the existing boroughs in the state (even excluding the North Slope Borough whose value is disproportionally high). On the other hand, the value of taxable property within the Fairbanks North Star Borough was found to be 14.9% below the average.

Adjusting the figures in that report to account for the value of the pipeline property in question would still leave the Yukon Flats with a level of taxable property per student second only to the North Slope Borough. The level of property would remain more than five times that of the average of existing boroughs (again, exclusive of the North Slope Borough). The value of property in the Borough would still be nearly 12% below that of the average of all existing boroughs.

Further, it should be noted that the value of property in the Yukon Flats region is so great that State law (AS 29.45.090) would preclude a borough in that region from taxing all of the property. The law would limit a borough tax to a maximum of \$311,047,897. Recent estimates place the value of property in that region at \$805,000,000. Even if the annexation were to occur, the area would have \$642,400,000 -- more than twice as much property as it could legally tax under the law.

Thus, it is concluded that the annexation would not adversely affect the viability of a borough in the adjacent region.

F. 3. ISSUE SERVING AS A PRECEDENT

The policy questions examined here take on added importance when one considers that the decision reached in this matter could serve as a precedent in dealing with other potential annexation proposals. For example, last year the Matanuska-Susitna Borough contemplated (but ultimately decided not to pursue) a proposal with similar characteristics. That proposal resembles the current one in that it also encompassed a sparsely populated area with high property values stemming from the pipeline and pump stations. However, there also appear to be significant differences between the proposal of the Fairbanks North Star Borough and the one contemplated by the Matanuska-Susitna Borough. These differences may include less of a social and cultural link to the territory proposed for annexation. Thus, the Department's position and Commission's decision with respect to this proposal may not necessarily extend to another proposal which shares some of the characteristics of the Fairbanks North Star Borough proposal. Each proposal would be carefully and fully examined on its own merits.

Section G.
CONCLUSION AND RECOMMENDATION

INTRODUCTION

This section of the report summarizes the findings of the Department with regard to the petition before the LBC. These findings are presented as conclusions. The conclusions are followed by recommendations to the LBC.

G. 1. DEPARTMENT CONCLUSION

The Department has found that the 216 square mile area proposed for annexation does indeed meet the necessary standards for annexation of contiguous territory to a borough. This conclusion is supported by the determination that the area has a limited need for services which can best be provided by the Borough and that to a limited extent services are provided without support. However, the factors which truly cause the Department to support this proposal are ones concerning equity and other policy considerations.

The Fairbanks North Star Borough compares favorably with most other municipalities and all unincorporated regions in the extent to which it supports the cost of local services. However, its tax base is substantially below that of the average of other boroughs. This annexation would provide greater equity to the residents of the second most populous municipal government in the state.

Further, this annexation would not detract from the financial viability of a future borough in the Yukon Flats region. It is also evident that the Fairbanks North Star Borough is capable and willing to extend areawide and non-areawide services to the region. Finally, it is evident that the expanded Borough would still satisfy the standards for formation of a borough as required by law.

Therefore, the Department concludes that the annexation requested by the Fairbanks North Star Borough is meritorious.

G. 2. DEPARTMENT RECOMMENDATION

As a result of the examination presented here, the Department has reached the conclusion noted above. Based upon this conclusion the Department recommends that the Commission approve the petition of the Fairbanks North Star Borough without amendment.

EXHIBIT A MAP OF AREA PROPOSED FOR ANNEXATION

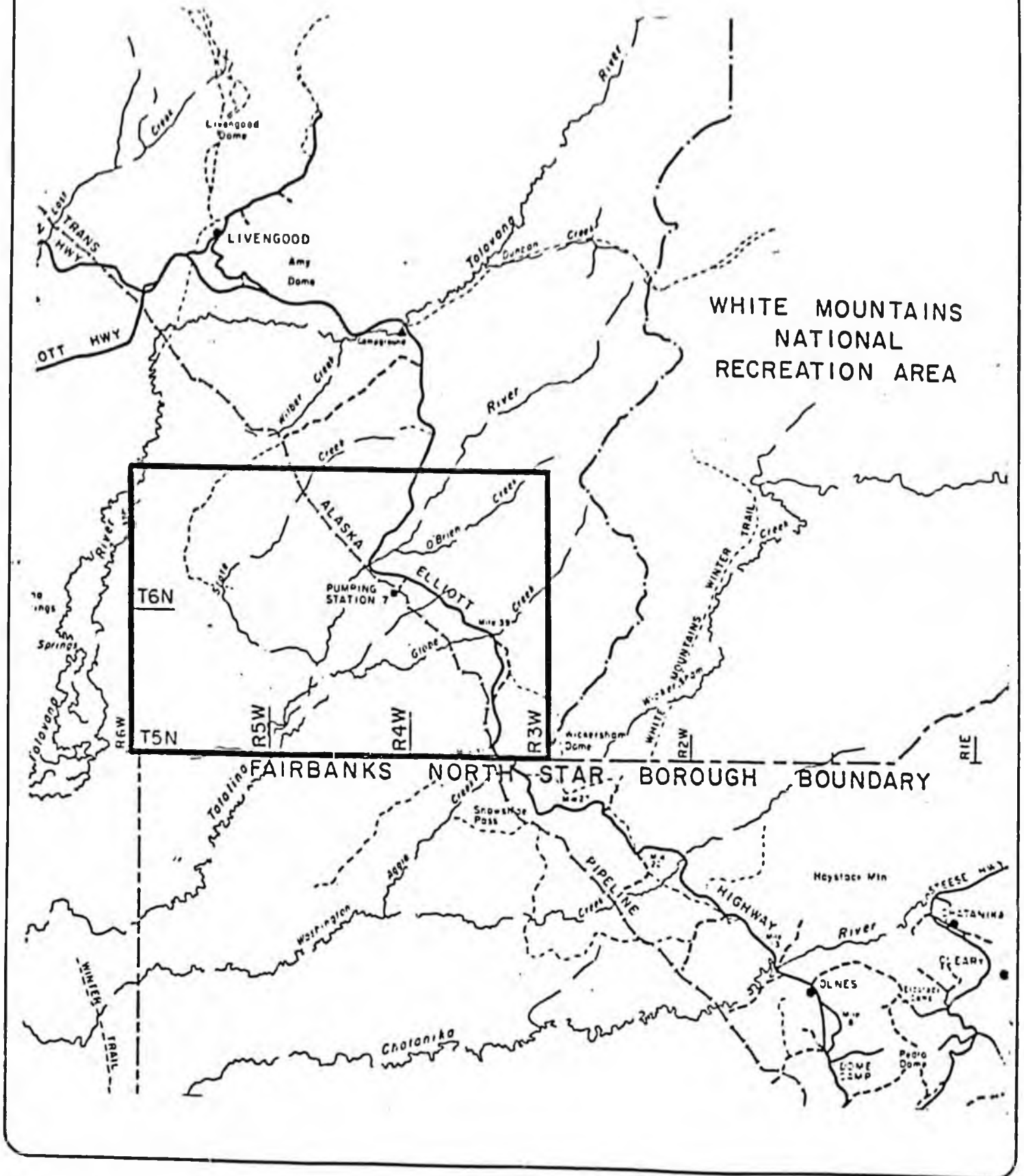


EXHIBIT B MAP OF ALTERNATE BOUNDARIES CONSIDERED

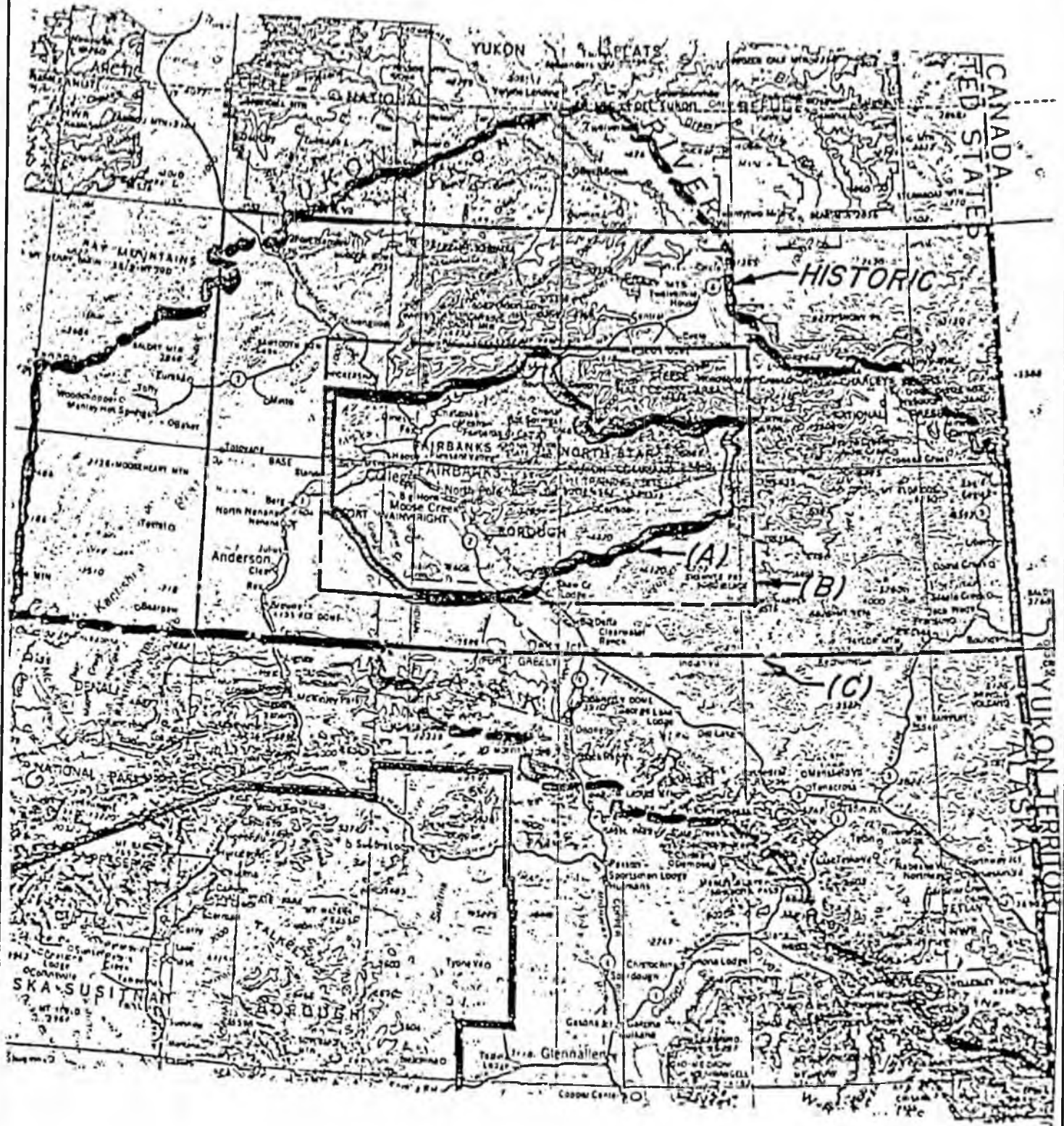
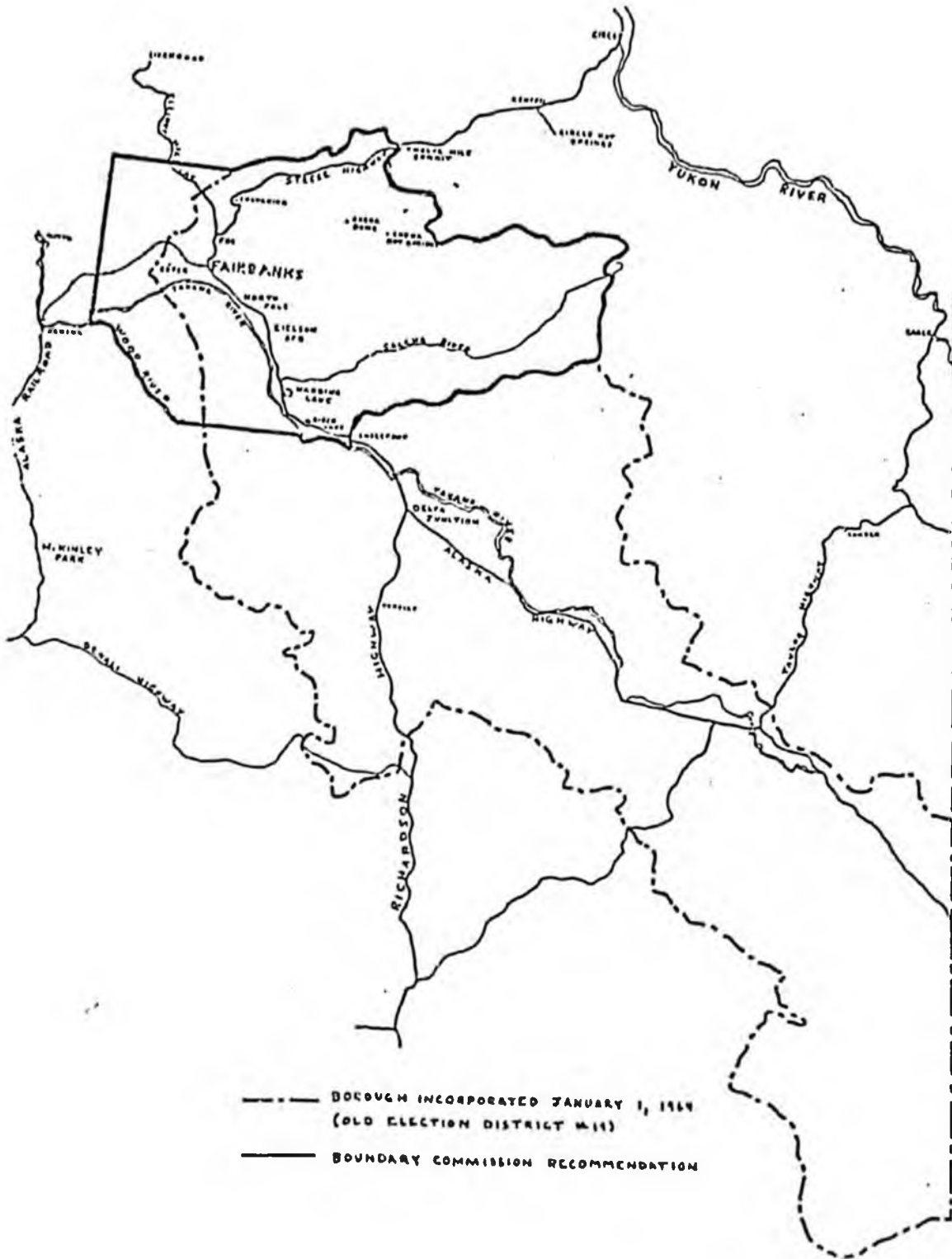


EXHIBIT C

MAP OF HISTORIC BOUNDARIES OF FAIRBANKS NORTH STAR BOROUGH



LBC RECOMMENDATION TO THE FIRST SESSION
OF THE SIXTEENTH STATE LEGISLATURE

ANNEXATION TO THE FAIRBANKS NORTH STAR BOROUGH

SUMMARY OF PROPOSED ANNEXATION

On September 28, 1988, the Fairbanks North Star Borough submitted a petition for the annexation of approximately 216 square miles of territory (see Exhibit B). The Local Boundary Commission conducted a hearing on this matter in Fairbanks on November 18, 1988. Because of a conflict of interest, Commission Chair, C. B. Bettisworth, abstained from participating in any of the proceedings related to this matter. A decisional session was held on December 2, 1988. During that meeting the Commission voted 3 to 1 to approve the petition without amendment. The dissenting Commission member issued a minority opinion which follows the body of this recommendation.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

In arriving at its findings, the LBC has considered documents and evidence including but not limited to, the petition for annexation, accompanying brief, and the report and recommendation of the Department of Community and Regional Affairs. For the sake of expediency, only those standards satisfied by the petition are discussed. If the standard is not mentioned, it may be assumed that it was not met.

I. Based upon the following facts, the Commission has concluded that the annexation is necessary to accomplish a valid public purpose in satisfaction of the standard for annexation set out in 19 AAC 10.190(a)(8).

a. Annexation Would Enhance the Tax Base of the Borough.

The Fairbanks North Star Borough's tax base is relatively weak. In January, 1988, the Department of Community and Regional Affairs published a report showing that the values of taxable property in the Borough (measured as value per student) were 14.9% below the average of all of the existing boroughs in the state (excluding the North Slope Borough whose value is disproportionately high).

Presently, the Fairbanks North Star Borough levies an areawide tax on real property (personal property is exempted) of 11.178 mills and an additional 1.065 mills for services outside cities (non-areawide). The areawide taxes are used to support education, planning, tax assessment and collection, and general administration. In its current fiscal year, approximately 73% of the areawide taxes will be spent in direct support of education within the Borough. The non-areawide taxes are used to support emergency services, economic development and solid waste disposal.

The efforts of the Borough to support its local services compares favorably with the majority of other municipalities in Alaska as demonstrated by its mill rate equivalent.

LBC RECOMMENDATION TO THE FIRST SESSION
OF THE SIXTEENTH STATE LEGISLATURE

The mill rate equivalent of the Borough (combined areawide and non-areawide) is greater than 58% of the cities and boroughs which received State Revenue Sharing in the most recent fiscal year. The greater tax effort of the Borough can be attributed in large measure to its relatively weak tax base.

The taxable territory proposed for annexation is comprised of an estimated 16 miles of the Tans-Alaska Oil Pipeline and Pump Station Number 7. Annexation of this area would increase the value of taxable property in the Borough by an estimated \$162,600,000. This would raise the total value of taxable property of the Borough by 5.2% to \$3,292,754,477.

While the annexation would provide financial benefits to the Borough, its tax base would still remain below the average of other boroughs. Adjusting the figures in the Department of Community and Regional Affairs' 1988 report to reflect the annexation would still leave the Borough nearly 12% below that of the average of all existing boroughs (excluding the North Slope Borough).

b. The Annexation Represents Sound Public Policy.

In the debate regarding this proposal, attention was focussed on the policy questions inherent in this annexation. The issues centered on the merits of an annexation which would impose virtually no additional service requirements on the Borough but would increase its annual revenues by as much as \$2 million. These revenues would be gained at the direct expense of the State since taxes levied by the Borough against the pipeline facilities would be applied as a credit to the taxes currently levied by the State. In response to these concerns, the Commission has concluded the following.

1. Financial Gain to the Borough is Not Excessive or Unwarranted.

With approval of the annexation, the Borough could begin taxing property in the annexed area in 1990. At the present value and current rates of taxation the Borough would collect \$1,990,712 from the area each year. This increase in revenues, however, would be offset substantially by a reduction in the level of funds received by the Borough under the State Education Foundation Program beginning in 1992. Based on the present value of the property in the area proposed for annexation, that reduction would amount to \$650,400 annually (the equivalent of a 4 mill tax on the property), leaving a net increase of \$1,340,312. While that figure remains substantial, its relative impact to the Fairbanks North Star Borough is not. That is, the Borough is the second most populous municipality in the state. Viewed in this light, the net revenues (following the adjustment to the foundation formula) amount to only \$17.85 per capita.

At the present value and the current rates of taxation, the total revenues which would be collected by the Borough from taxes levied on the pipeline property facilities (existing boundaries plus area proposed for annexation) would amount to \$8,585,463.

LBC RECOMMENDATION TO THE FIRST SESSION
OF THE SIXTEENTH STATE LEGISLATURE

The value of the pipeline property within the Borough would, however, reduce its level of annual funding under the State Education Foundation Program by \$2,805,019. Thus, the net effect is an annual gain in revenues of \$5,780,444 from taxes on the pipeline. This amounts to \$76.99 per capita.

The revenue characteristics of the proposed annexation are in no sense extreme. Many municipalities receive per capita revenues from *non-local sources* unique to their area which are equal to or greater than the net \$76.99 per capita. Some examples include: the North Slope Borough - \$27,198 per capita (1987 taxes on oil and gas facilities under AS 43.56); the City of Valdez - \$6,649 per capita (\$6,604 from 1987 taxes on oil and gas facilities under AS 43.56 and \$45 from State shared raw fish taxes); City of Chignik \$2,183 per capita (FY 88 State shared raw fish taxes); City of Akutan - \$1,374 per capita (FY 88 State shared raw fish taxes); and the Bristol Bay Borough - \$1,062 per capita (FY 88 State shared raw fish taxes.) In fact, more than 30% of the municipalities which received State shared raw fish taxes in FY 88 received per capita revenues of \$77 or more.

2. Approval of this Annexation is Not Inconsistent with the Commission's *Statement on Borough Government in Alaska*.

The Local Boundary Commission advocates a reassessment of State financial aid to municipalities in an effort to provide for greater equity to all municipalities. The Commission's position on this matter is addressed in its *Statement on Borough Government in Alaska* which was adopted on December 2, 1988.

Approval of this annexation has been viewed as being inconsistent with the call for a re-examination of the current structure of financial aid to municipalities. It is argued that this annexation is tantamount to *piecemeal assistance* which exacerbates the inequities. It has been further argued that the annexation will diminish the incentive on the part of the Fairbanks area legislators to deal with the matter.

The Commission has rejected these arguments. This annexation is not inconsistent with its *Statement on Borough Government in Alaska*. In point of fact, the Commission adopted this statement at the same meeting that it approved the annexation to the Fairbanks North Star Borough.

The Fairbanks North Star Borough has a legitimate need to enhance its tax base. Certainly this Commission would view differently an annexation proposal of this nature by a municipality whose tax base was greater than the average of other boroughs. However, while the annexation enhances the tax base of the Borough, the Borough will continue to have a relatively weak tax base even after the annexation. As stated previously, the Borough's tax base is presently 14.9% below the average of other existing boroughs. It will remain 12% below that average after the annexation. Thus, there will

LBC RECOMMENDATION TO THE FIRST SESSION
OF THE SIXTEENTH STATE LEGISLATURE

continue to be a strong incentive for the Borough and Fairbanks area legislators to support the re-examination of financial aid to municipalities to provide greater equity.

3. The Proposed Annexation Would Not Diminish the Viability of a Potential Borough in the Adjacent Region.

The territory proposed for annexation is presently located within the Yukon Flats Regional Educational Attendance Area (REAA). At the beginning of this year, the Department of Community and Regional Affairs reported that the Yukon Flats REAA had the greatest level of taxable property of any unincorporated region of the state. The value of taxable property in that region (measured as value per student) was reported to be in excess of 5 times that of the average of all of the existing boroughs in the state (even excluding the North Slope Borough whose value is disproportionately high).

Adjusting the figures in that report to account for the value of the pipeline property, approval of the area proposed for annexation would still leave the Yukon Flats REAA with a level of taxable property per student second only to the North Slope Borough. The value of taxable property would remain more than five times that of the average of existing boroughs (again, exclusive of the North Slope Borough).

Further, the value of property in the Yukon Flats region is so great that State law (AS 29.45.090) would preclude a borough in that region from taxing all of the property. The law would limit the authority of a borough there to tax no more than \$311,047,897 of the property (225% of the statewide per capita assessed full and true value multiplied by the population of the borough). Recent estimates place the value of property in that region at \$805,000,000. Even if the subject annexation were to occur, the area would have \$642,400,000. This is more than twice as much property as it could legally tax under the law. Thus, it is concluded that the annexation would not adversely affect the viability of a borough in the adjacent region.

4. There Is Precedent for the Expansion of Borough Boundaries to Enhance Revenues of a Borough.

While attempts to expand the perimeter of boroughs in Alaska on any basis have been rare, there is precedence for the type of annexation being sought by the Fairbanks North Star Borough. In 1974, the Commission approved an annexation of 221 square miles of land and 96 square miles of water to the Haines Borough. The purpose of the annexation appears to have been principally to enhance the revenues of that borough.

The Haines Borough was at the time, and remains today, disadvantaged by a relatively low tax base. The present extent of this disadvantage exceeds that even of the Fairbanks North Star Borough. The Department of Community and Regional Affairs noted in its

LBC RECOMMENDATION TO THE FIRST SESSION
OF THE SIXTEENTH STATE LEGISLATURE

January, 1988, study that the full and true value of taxable property in the Haines Borough was found to be 35.7% below the average (again, excluding the North Slope Borough).

In the report of the Local Boundary Commission submitted to the 1975 legislature, the following was noted with respect to the proposed annexation to the Haines Borough (emphasis added):

WHEREAS, the territory sought to be annexed by the Haines Borough meets the standards for annexation in that the territory will be subject to future growth and development and annexation will enable the Borough to assist in and receive benefits from that development; and

WHEREAS, annexation of the territory would allow the Haines Borough to more fully meet standards for formation of a borough in that the new boundaries established would more closely approximate *natural geography*, altering the geographical southern boundary of the Haines Borough, an arbitrary line extending east and west bisecting the Chilkat Peninsula, a natural geographic part of the Haines Borough; and

WHEREAS, the Haines Borough is being denied certain revenues (specifically, raw fish taxes and stumpage fees) to which it, as the regional entity responsible for governmental services, is rightfully entitled . . .

With respect to the first *Whereas* clause, it should be noted that the Haines Borough is (and always has been) a third class borough. As such, it is not obligated by law to provide planning, platting and zoning, nor does it do so on a voluntary basis. Therefore, it is concluded that the findings of the Commission concerning the possibility of growth and development in the area then proposed to be annexed to the Haines Borough cannot be construed as satisfying the standard presently set out in 19 AAC 10.190 (a)(4). This standard provides that there is a reasonable likelihood that future growth and development will occur within the territory and annexation of the territory will enable the organized borough to plan for and control that development.

The need for services in the area proposed for annexation to the Haines Borough was limited in 1974 and remains so today. The only *services* presently provided to the area are tax assessment/collection and education. With respect to the latter, the Haines Borough does not provide a school in the territory annexed in 1974/1975, but offers education through correspondence. According to a Borough official, *in the past there has typically been one or more students in the area annexed in 1974/1975 who have enrolled in the Borough's correspondence program. However, this year, all of the students in that area have either elected to use the State correspondence education program (bypassing the Borough) or have made arrangements for private schooling.*

LBC RECOMMENDATION TO THE FIRST SESSION
OF THE SIXTEENTH STATE LEGISLATURE

Yet, for FY 87 the Haines Borough received \$166,894.87 in State-shared raw fish taxes. The vast majority of these revenues were generated in the area annexed in 1974/1975. In fact, according to the Alaska Department of Fish and Game, 99.6% of the ex-vessel value of fisheries landed at shore-based processors in the Haines Borough in 1987 were landed in the area annexed in 1974/1975 (\$3,915,831 of \$3,930,180). The FY 87 State shared raw fish tax revenues paid to the Haines Borough amount to \$83.82 per resident (compared to \$76.99 in net post annexation pipeline taxes for the Fairbanks North Star Borough). In addition, the 1974/1975 annexation involved an estimated 141,440 acres of the Tongass National Forest. Consequently, the entitlement of the Haines Borough to funds under the National Forest Receipts program was increased annually by an estimated 50%. The average annual payment received by the Haines Borough under the National Forest Receipts program during Federal fiscal years 1982 - 1986 amounted to \$81,677, or \$41.02 per capita. Together, the FY 87 State-shared fish taxes and the 1982-1986 average annual National Forest Receipts program payment generated \$124.84 per capita for the Haines Borough. Most of those revenues were generated as a direct consequence of the 1974/1975 annexation.

5. Without Other Supporting Circumstances, Revenue Enhancement Alone May Not Justify the Expansion of the Boundaries of a Borough.

The action of the Commission in the Haines Borough annexation was further supported by the fact that the proposed boundary change helped to perfect the boundaries of the Haines Borough in terms of conformance to natural geography. Prior to the annexation, the southern boundary of the Borough was an arbitrary east-west line. The annexation extended the southern boundary to encompass the end of the Chilkat Peninsula.

This is not to say that the Haines Borough annexation provided optimum or perfect boundaries for the Borough, but rather it improved the prior boundaries. Indeed, three years later the Commission authorized another annexation to the Haines Borough (a former military reservation). Even today, the Commission recognizes the existence of an apparent need to modify the boundaries of the Haines Borough due to the fact that Klukwan exists as an enclave within the Borough.

In the case of the Fairbanks North Star Borough, the annexation is supported by social, cultural and economic ties between the territory proposed for annexation and the rest of the region. The majority of the workers at Pump Station #7 are believed to be residents of the Borough. The Pump Station is located approximately 10 miles north of the present boundaries of the Borough. The area and the Borough are connected by a modern highway.

As in the case of Haines, the Commission does not believe that the proposed post-annexation boundaries of the Fairbanks North Star Borough are necessarily optimum

LBC RECOMMENDATION TO THE FIRST SESSION
OF THE SIXTEENTH STATE LEGISLATURE

or perfect boundaries. However, the proposed annexation will help to perfect the boundaries under two important considerations. The first (from a financial standpoint) furthers the satisfaction of the borough incorporation standard that requires the boundaries of the borough to *include all areas necessary for full development of municipal services* and that the *economy of the area includes the human and financial resources capable of providing municipal services* (AS 29.05.031(a)(2) and (3)). The second furthers the satisfaction of borough incorporation standards in terms of the social and economic ties of the area to Fairbanks (AS 29.05.031(1)).

II. Based upon the following facts, the Commission has concluded that the post-annexation boundaries of the Fairbanks North Star Borough still conform to the standards for formation of a borough as required by 19 AAC 10.220.

a. The population within the expanded boundaries of the borough remains interrelated and integrated as to its social, cultural, and economic activities.

The area proposed for annexation is uninhabited. However, an estimated 36 workers are employed at an industrial facility located in the area. The majority of these workers are believed to reside within the boundaries of the Borough. As noted previously, there are strong social, cultural and economic ties between the area proposed for annexation and the population of the Borough.

b. The population within the expanded boundaries of the Borough remains large and stable enough to support borough government.

Again, since the area considered for annexation is uninhabited, the size and stability of the Borough's population would not be affected by the annexation.

c. The expanded boundaries of the Borough still conform generally to natural geography and include all areas necessary for full development of municipal services.

The existing boundaries of the Borough in the area adjacent to the territory proposed for annexation follow township and range lines. This annexation would simply extend those lines twelve miles to the north and eighteen miles to the east.

In preparing the petition for the subject annexation, several alternative boundaries were considered by the Assembly of the Fairbanks North Star Borough. These ranged from the subject proposal approved by the Commission, to a much larger area encompassing the *historic interests* of the Fairbanks region. The latter follows the Yukon River along the north (from Tanana lying 100 miles west of the existing boundaries to the Canadian border lying 85 miles east of the existing boundaries) and follows the Alaska Range along the south.

LBC RECOMMENDATION TO THE FIRST SESSION
OF THE SIXTEENTH STATE LEGISLATURE

After careful consideration, the Fairbanks North Star Borough Assembly selected the boundaries of the subject proposal. The petitioner's representative has indicated that *it was clear the members (of the Assembly) did not want to include areas of existing concentrated or organized populations such as Livengood or Delta.*

The Commission did not conclude that the proposed annexation would necessarily establish *optimum boundaries* for the Borough. However, given the present structure for the delivery of regional services throughout the state (as discussed in the Commission's *Statement on Borough Government in Alaska*), the Assembly's position to avoid populated areas is understandable. If the Borough had attempted to annex populated areas, opposition to the proposal would likely have been much more formidable. In such an event, the chances of success would likely have been diminished.

Thus, given the evidence before the Commission, it appears that the boundaries of the annexation proposal are reasonable. If this region (the existing Borough and the area proposed for annexation) were incorporating today for the first time, the Commission would find the boundaries to be appropriate. With the annexation, the Commission has found that the Borough's boundaries would generally follow the natural geography of the region to the extent of other organized boroughs.

d. The economy of the expanded borough still includes the human and financial resources capable of providing municipal services.

Again, because there is no population change, the annexation would have no effect on the human resources of the Borough. With respect to financial resources, this annexation would obviously enhance the extent to which the Borough meets this standard.

e. The land, water and air transportation facilities of the expanded borough still allow the communication and exchange necessary for the development of integrated borough government.

This annexation will not affect the ability of residents of the Fairbanks North Star Borough to communicate and interrelate. Therefore, this standard is considered to be satisfied.

III. Based upon the following facts, the Commission has concluded that the territory is in limited need of municipal services which the Fairbanks North Star Borough can provide more efficiently than another municipality or the State. This conclusion satisfies the standard for annexation set out in 19 AAC 10.190(a)(3).

The Fairbanks North Star Borough exercises the following powers on an areawide or non-areawide basis: education, planning, platting, zoning, elections, assessment and collection of taxes, emergency medical services, parks and recreation, animal control,

LBC RECOMMENDATION TO THE FIRST SESSION
OF THE SIXTEENTH STATE LEGISLATURE

libraries, air quality control, solid waste disposal, flood control (Chena River only), economic development, and transportation.

According to the Fairbanks North Star Borough, *all six townships (216 square miles) are either State tentative approved or are conveyed to the State. There appear to be about three dozen 40 acre mining claims (and) about three or four U.S. Surveys which would indicate homesites, homesteads or another private interest.* Assuming there were four U.S. Surveys, each comprised of 40 acres, these (along with the mining claims) would total approximately 1,600 acres or 1.2% of the total area proposed for annexation. The area also includes the right-of-way for the Trans-Alaska Oil Pipeline. Approximately 16 miles of the pipeline and Pump Station Number 7 are located in this area. Together, these facilities are estimated to have a taxable value of \$162,600,000.

The Fairbanks North Star Borough testified that the area proposed for annexation is uninhabited. However, there are an estimated 36 individuals employed at Pump Station Number 7. Given the characteristics of the region, the demand for services is limited. However, if a fire or medical emergency were to occur at the pump station which would be beyond the resources of the station personnel to control, the Fairbanks North Star Borough would provide emergency assistance.

Even though the Commission has found that there is limited need for services in this case, the Commission notes that inclusion of uninhabited areas which have little or no need for services is not uncommon in other boroughs. Boroughs are regional governments which must rely on regional resources (often found in uninhabited areas) to help support the delivery of services to populated areas.

IV. Based upon the following fact, the Commission has concluded that property owners within the territory receive or can be reasonably expected to receive, directly or indirectly, the benefit of borough government without commensurate property tax contributions, whether borough services are rendered or received inside or outside the borough. This conclusion satisfies the standard for annexation set out in 19 AAC 10.190(a)(7).

Officials of the Fairbanks North Star Borough have testified that the Borough would extend emergency services to the area proposed for annexation in the event of need. However, the cost of such is insignificant when compared to the revenue generating potential of the area.

V. Based upon the following facts, the Commission has concluded that the Fairbanks North Star Borough is capable of and willing to extend areawide and non-areawide services to the area proposed for annexation as required by 19 AAC 10.200.

LBC RECOMMENDATION TO THE FIRST SESSION
OF THE SIXTEENTH STATE LEGISLATURE

As indicated previously, the need for services in the area proposed for annexation is limited. The extension of areawide and non-areawide services to this territory would require little expenditure by the Borough. The Fairbanks North Star Borough appears willing and capable of serving the territory proposed for annexation.

COMMISSION MINORITY
SUMMARY POSITION

The following summary of the minority position concerning the Local Boundary Commission 1988 Fairbanks Annexation petition was prepared by Commissioner Cotten.

1. There is no precedent for the decision. Despite the effort to claim some type of parallel with an unrelated annexation by Haines in the early 1970's, this effort has no precedent. No municipality has claimed additional property to the tune of \$162 million and not met one standard other than the ill-defined open-ended *valid public purpose* standard.
2. The annexation allows additional control and financial benefit with no additional responsibility or service. The Borough takes on no new service or responsibility but receives, to the detriment of the rest of the state, \$1.3 million annually. The staff position doesn't even pretend the annexation is anything but a money grab.
3. The annexation is illogical, piecemeal and counter-productive to encouraging regional government in the unorganized borough. The annexation does not follow any natural boundary and serves notice to others that a piecemeal approach to regional government may be acceptable. Moreover, it is politically self-defeating if the Commission wishes to convince the Legislature of needed changes to state assistance programs if it allows the second largest community to obtain the benefits of the needed changes without any effort.
4. The borough argument of a higher than average local contribution in Fairbanks is specious and misleading. Nowhere is the issue of what services cost in Fairbanks described or if there is a possibility that the borough simply promised too much and politically is not brave nor competent enough to make cuts or increase revenues from users.
5. 36 people employed in a pump station is not a rational basis for the annexation. It was argued that since the 36 people employed at the pump station live in Fairbanks, it was logical to have it annexed. This simply doesn't make any sense. The 36 people represent 0.048% of the borough population. To state that because such a small percentage of the borough

LBC RECOMMENDATION TO THE FIRST SESSION
OF THE SIXTEENTH STATE LEGISLATURE

population works in the unorganized borough but resides inside is justification to annex the area is simply grasping for straws.

LBC DECISION AND RECOMMENDATION

Based upon the findings of fact and conclusions of law summarized herein, the proposed annexation of approximately 216 square miles of territory to the Fairbanks North Star Borough has been found to satisfy the applicable requirements of State statute and regulation regarding annexation of contiguous territory to a borough.

THEREFORE, AND IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE X, SECTION 12 OF THE STATE CONSTITUTION, the Commission hereby recommends to the First Session of the Sixteenth Legislature, the annexation of the described territory. The resulting boundary description of the Fairbanks North Star Borough reads as follows:

Beginning at the NW Corner of Township 6 North, Range 5 West, Fairbanks Meridian (F.M.); thence easterly along the north line of Township 6 North to the NE Corner of Township 6 North, Range 3 West, (F.M.); thence south along the range line to the NW corner of Township 4 North, Range 3 West (F.M.); thence easterly along the north line of Township 4 North to the ridge between the headwaters of the Trail and Poker Creeks; thence northeasterly following this ridge south of Ophir and Nome Creeks and around the headwaters of Hope and Charity Creeks; thence southeasterly following the ridge south of the headwaters of Bachelor and McKinley Creeks across the Steese Highway at Twelvemile Summit; thence following the divide around the headwaters of Harrington and Crooked Creeks; thence around the headwaters of Boulder Creek and the North Fork of the Chena River to the summit of Far Mountain; thence easterly along the divide around the headwaters of Lawson Creek and Cash Creek; thence following the ridge north of the headwaters of the East Fork of the Chena River and around the headwaters of the Salcha River; thence southerly around the headwaters of Lost Creek to the ridge north of the Goodpaster River; thence southwesterly along this ridge, around the headwaters of Indian Creek, Gillis Creek and Rosa Creek and continuing along the ridge between Buckeye Creek and Tenderfoot Creek across the Richardson Highway to a point in midstream of the Tanana River; thence downstream in midstream of the Tanana River to its intersection with the south line of Township 7 South; thence west on this township line to a point mid-stream in the Wood River; thence downstream in the midstream of the Wood River to a point midstream in the Tanana river; thence north and east in midstream of the Tanana River to its point of intersection with the west line of Range 5 West; and thence north on this range line to the NW Corner of Township 6 North, Range 5 West, (F.M.), the point of beginning.

McLean

WRITTEN TESTIMONY RE HOUSE JOINT RESOLUTION 21 TO BE INCLUDED
WITH MINUTES OF COMMUNITY & REGIONAL AFFAIRS COMMITTEE 2/16/89

My name is Phyllis Tate. I have been living at Lake Minchumina off and on since 1951. Lake Minchumina is in Election District 24-- about 150 miles southwest of Fairbanks. My husband and i currently own a home and business at Lake Minchumina and have for several years

There are more than 50 property owners at Lake Minchumina--many of whom are year-round residents. Lake Minchumina is within the Tanana Chiefs Conference area of interest. We are not located within the proposed new Fairbanks North Star Borough.

I can tell you without any doubt if the Tanana Chiefs were to propose a borough, the residents at Lake Minchumina would probably be leading the opposition against any such move. They have no desire to be encompassed by any borough.

I find it hard to believe that Minchumina is the only rural community with residents who feel this way. I don't think the fact that someone else might want to form a borough someday is reason to pass HJR 21.

PLEASE VOTE AGAINST THIS RESOLUTION.

Thank you.



Alaska State Legislature

Please enter into the record my testimony to the HCRA Committee
 committee name
 committee on HJR 21, dated 2/16
 bill/subject

I support this Resolution. The following Village Councils were unable to use ^{the} LID teleconference ^{network}, and have asked me to record their support of HJR 21:

- Allakleet Traditional Council
- Minto IRA Council
- Mealey Hot Springs Traditional Council

Signed: Oren Frankel, Community Resource Coordinator
 Testifier
TCC / Fbxs. SR
 Representing (Optional)
320 2nd Ave
 Address Fbxs. AK 99701
 Phone No. 452-8251

REPORT AND RECOMMENDATION TO THE LOCAL BOUNDARY COMMISSION

(INCLUDES EXECUTIVE SUMMARY)

PETITION FOR ANNEXATION OF 216 SQUARE MILES
TO THE FAIRBANKS NORTH STAR BOROUGH



PREPARED BY THE
STATE OF ALASKA
DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS
MUNICIPAL AND REGIONAL ASSISTANCE DIVISION

NOVEMBER, 1988



STEVE COWPER
GOVERNOR

DAVID G. HOFFMAN
COMMISSIONER



(907) 486 5736

Kodiak Island Borough

710 Mill Bay Road
Kodiak, Alaska 99615



JEROME M. SELBY
Mayor

HJR

23

HOUSE JOINT RESOLUTION 23

TABLE OF CONTENTS

ITEM 1:	0 Fiscal Note - Depart. of Community & Regional Affairs
ITEM 2:	DC&RA Recommendations to the Local Boundary Commission
ITEM 3:	Position Paper - Lake and Peninsula School District
ITEM 4:	Letter - Bruce Balter
ITEM 5:	Comments on Local Boundary Commission Process - BENA
ITEM 6:	Legislative Resolve 52
ITEM 7:	Letter - Egegik Village Council
ITEM 8:	Maps
ITEM 9:	Local Boundary Commission Report
ITEM 10:	Statutes
ITEM 11:	News Article
ITEM 12:	House Joint Resolution 23

1

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "Disapproving the Local Boundary Commission... Kodiak Island Borough."
Sponsor: Jacko
Requestor: _____

Agency Affected: Community & Regional Affairs
BRU: Local Boundary Commission
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: *Jim Plasman*
Jim Plasman, Deputy Director Phone: 465-4750
 Division: Municipal & Regional Assistance Date: 2-10-89
 Approved by Commissioner: *H.C. ...* Date: 2-0-89
 Agency: Community & Regional Affairs

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

**REPORT AND RECOMMENDATION
TO THE LOCAL BOUNDARY COMMISSION**

(INCLUDES EXECUTIVE SUMMARY)

**PETITION FOR ANNEXATION OF 12,830 SQUARE MILES
TO THE KODIAK ISLAND BOROUGH AND CONSIDERATION
OF THE COMPETING PETITION FOR INCORPORATION OF THE
LAKE AND PENINSULA BOROUGH**



**PREPARED BY THE
STATE OF ALASKA
DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS
MUNICIPAL AND REGIONAL ASSISTANCE DIVISION**

NOVEMBER, 1988



**STEVE COWPER
GOVERNOR**

**DAVID G. HOFFMAN
COMMISSIONER**



TABLE OF CONTENTS

EXECUTIVE SUMMARY PAGES i-vii

COMPLETE REPORT

Page

Section A. ADMINISTRATIVE AND PROCEDURAL INFORMATION

INTRODUCTION. 1

A. 1. Alaska Local Boundary Commission. 1

A. 2. Standards for Annexation of Contiguous Territory. 1

A. 3. Available Procedures. 3

Section B. LEGISLATIVE REVIEW METHOD OF ANNEXATION

INTRODUCTION. 4

B. 1. Legislative Review as the Most Appropriate 4

B. 2. Legislative Review Process 4

Section C. COMPETING PETITIONS

INTRODUCTION. 6

C. 1. Regulatory Standards 6

C. 2. Concurrent Borough Incorporation Petition 6

Section D. ANNEXATION PROCEEDINGS/BACKGROUND INFORMATION

INTRODUCTION. 8

D. 1. Proceedings to Date 8

D. 2. Reasons for Annexation. 9

Section E. AREA PROFILE

INTRODUCTION. 10

E. 1. Area Proposed for Annexation. 10

E. 2. Kodiak Island Borough 11

Section F. APPLICATION OF COMPETING PETITIONS STANDARDS

INTRODUCTION 12

F. 1. Ability to Better Serve the Area. 12

F. 2. Effect on Financial Viability 13

F. 3. Standards of Proposed Boundary Change 14

TABLE OF CONTENTS

	<u>Page</u>
Section G. APPLICATION OF ANNEXATION STANDARDS	
INTRODUCTION.	15
G. 1. STANDARD 1: Contiguous Territory.	15
G. 2. STANDARD 2: Ownership of Territory.	15
G. 3. STANDARD 3: Need for Municipal Services	15
G. 4. STANDARD 4: Future Growth and Development in Territory	16
G. 5. STANDARD 5: Health, Welfare or Safety of Residents as Affected by Territory	17
G. 6. STANDARD 6: Necessary Extension of Services into Territory.	18
G. 7. STANDARD 7: Benefit of Services Without Property Tax Contribution	19
G. 8. STANDARD 8: Valid Public Purpose.	19
G. 9. STANDARD 9: Capability and Willingness to Extend Municipal Services	20
G.10. STANDARD 10: Social, Cultural and Economic Interrelationship	20
G.11. STANDARD 11: Size and Stability of Population	20
G.12. STANDARD 12: Natural Geography.	20
G.13. STANDARD 13: Human and Financial Resources	20
G.14. STANDARD 14: Transportation Facilities	21
Section H. CONCLUSIONS AND RECOMMENDATIONS	
INTRODUCTION.	22
I. 1. Department Conclusions.	22
I. 2. Department Recommendations.	22
Section I. EXHIBITS	
EXHIBIT A: Map of Area Proposed for Annexation including contested area	

EXECUTIVE SUMMARY

Proposed Annexation

The Kodiak Island Borough (KIB) is seeking expansion of its boundaries that if successful, would more than double its current territory of 9,565 square miles. The area proposed for annexation contains approximately 12,830 square miles. Of this, there are an estimated 2,130 square miles of land and approximately 10,700 square miles of water. All land areas are within State jurisdiction. However, approximately 9,014 square miles of waterways are beyond the State's current three mile jurisdictional limit.

Onshore territory consists of all those lands on the Alaska Peninsula which drain into Shelikof Strait and/or the Pacific Ocean extending from the Kenai Peninsula Borough boundary on the north to Cape Kumlik on the south. It further includes Sutwik Island, the Semidi Islands and Chirikof Island. Waterways generally consist of all of Shelikof Strait from the Kenai Peninsula Borough boundary on the north to that water area three geographical miles south of Sutwik, Semidi and Chirikof Islands (see map included as Exhibit A).

There appear to be two primary reasons for the proposed annexation. The first is to provide the Kodiak Island Borough with the jurisdictional control to address problems created by floating processors in the area proposed for annexation. These problems include solid waste disposal, loss of raw fish tax revenue and reduced on-shore fish processing. The second reason is, according to the petitioner, to provide the borough with the ability to effectively influence state and federal policy and regulatory decisions over the same area.

The subject territory contains no permanent residents but reportedly does have at least a dozen dwellings of various types. The KIB has estimated the area's taxable real property value at \$5,110,000. Currently the KIB has an estimated taxable real and personal property value of \$423,188,110. Thus, in terms of relative taxable value, the area proposed for annexation represents 1.2% of the total taxable value of the Borough.

The KIB levies an areawide real and personal property tax of 4.5 mills and no non-areawide tax. There are however additional taxes levied by the Borough on a service area basis. The petitioner states that there are no plans for formation of a service area in the area proposed for annexation. Given the available taxable value of the area, the area proposed for annexation then represents potential taxable real property revenue to the Borough of approximately \$22,995.

Local Boundary Issues

At face value this proposed action is relatively straightforward. The area is predominantly waterway, there are no permanent residents and, according to the petitioner, it offers relatively little additional revenues to the annexing municipality. However, there are several conditions which complicate this proposed action.

1. On November 10, 1988 the Department received a petition for borough incorporation from the residents of the Lake and Peninsula School District. This petition contains all of the Alaska Peninsula lands and a substantial portion of the water proposed for annexation by the KIB. Thus, the State is facing consideration of competing local boundary actions as defined by 19 AAC 10.835 with all the attendant considerations (i.e. which municipality is best able to serve the area, the extent to which approval of either action affects the financial viability of the other municipality, and the extent to which each petition satisfies the standards for its respective action.)
2. Sutwik Island, the Semidi Islands and Chirikof Island are situated beyond the jurisdictional boundaries of any municipality but they are sandwiched between two regional governments, the Kodiak Island Borough and the Aleutians East Borough. If the Lake and Peninsula incorporation is successful, these islands will then be at the doorstep of three regional governments. They would be dangling, so to speak, as part of the unorganized borough surrounded by organized boroughs. Thus, consideration must be given to their geographical proximity to these regional governments and the practicality of their continued existence outside any municipal government.
3. There is some ambiguity regarding the perimeter of the Kodiak Island Borough. Annexation would provide the Borough the opportunity to more precisely define its jurisdictional boundaries.

Two Questions

These issues generate two questions which form the basis of the state's determination in this proposed annexation.

1. Should Sutwik Island, the Semidi Islands and Chirikof Island remain beyond the jurisdictional boundaries of any municipality?

2. Which of the competing actions serves the best interest of the state as defined by 19 AAC 10.835(d)?

Sutwik Island,
Semidi Islands and Chirikof Island

Sutwik Island, the Semidi Islands and Chirikof Island are located approximately 14 miles southeast of the Alaska Peninsula. Sutwik Island is that island nearest to the Peninsula beginning approximately 15 miles east of the mainland. The Semidi Islands begin 23 miles southeast of Sutwik Island and these nine islands extend into the Pacific Ocean in the same southeasterly direction. Chirikof Island is likewise southeast of the Semidi Islands. It is approximately 11 miles long and it is approximately 100 miles southwest of Kodiak Island. The KIB has proposed annexation of these islands. The Lake and Peninsula School District has included only Sutwik Island within its proposed borough boundaries. The Aleutians East Borough has shown no interest in any of these islands. These are uninhabited lands which appear to offer little if any taxable value or other benefit to a regional government.

Given the proximity of Sutwik Island to the Alaska Peninsula and the interest from that region for inclusion of this island within its proposed borough territory, the Department recommends its inclusion within the proposed boundaries of the Lake and Peninsula Borough. Although there appears to be no particular need for services on these islands the inclusion of such territory within other regional governments is the state is not uncommon.

The Department further recommends that the KIB annex the Semidi Islands and Chirikof Island. While the KIB has presented no compelling arguments for their inclusion within its boundaries, there appears to be no compelling reason for the islands not to be included. The KIB is willing and able to extend services to the islands (to the extent necessary). Therefore, the Department considers the annexation of these islands to be appropriate.

Kodiak Annexation of Territory
v.

Lake and Peninsula Incorporation of Territory

The larger and more complex issue in this proposed annexation concerns the fact that one existing and one proposed borough are "competing" for the same territory. There are several necessary observations which put this conflict into perspective. (For the sake of expediency, the proposed Lake and Peninsula Borough may be characterized as an existing government in the following discussion.)

1. Both governments claim that they have undisputed historical, cultural, social and economic ties to a portion of the area proposed for annexation (see map, Exhibit A). Both observe that fishermen of the area live in communities within the respective government's boundaries. The Department has not conducted extensive research into these claims, but presumes that both groups have made valid assertions. It does appear that the KIB has somewhat closer economic ties to the area since salmon caught there are processed onshore in the City of Kodiak.
2. The Department assesses both governments as capable of providing services to the area to the extent necessary. While the KIB has asserted that its coastal management plan is currently in effect and easily adapted to the area, the Department observes that the Bristol Bay Coastal Resource Service Area (BBCRSA) Coastal Management Plan is currently in effect in the area. The Lake and Peninsula Borough will provide planning services in the contested area immediately upon incorporation which include coastal management.

The KIB states that it provides solid waste collection and disposal services on a non-areawide basis and within the City of Kodiak. It argues that as a result of recently enacted federal legislation (MARPOL effective December 31, 1988) it will be required to provide adequate receptacles at the Port of Kodiak for on-land disposal of garbage from fishing vessels. The KIB contends that it will bear the cost of an increased level of waste collection and disposal since Kodiak is the port of call for vessels frequenting the waters of the contested area. The Department observes however, that the City of Kodiak, not the Kodiak Island Borough, will actually bear the majority of the cost of whatever increase in waste collection is required as a result of MARPOL since it is the city who actually provides this service.

3. Both governments observe geographical continuity with the territory. The KIB asserts that the Aleutian Range on the Alaska Peninsula (which determines river drainage patterns) serves as a natural topographical divider for those rivers that drain into Shelikof Strait. The Strait in turn unites the rivers on Kodiak Island with these same rivers as a common drainage basin. Conversely, the proposed Lake and Peninsula Borough observes that the contested area is a portion of the Alaska Peninsula and it is an

integral part of the land mass proposed for borough incorporation, regardless of the drainage pattern of the rivers. The Department recognizes both claims as legitimate in their own right. However, the Department concludes that the Lake and Peninsula Borough's argument is somewhat more persuasive and meritorious than the KIB in this regard.

4. Finally, the contested area does hold revenue potential for the Lake and Peninsula Borough which is relatively more significant than for the KIB. First, the KIB has estimated taxable real property value in the area proposed for annexation at \$5,110,000. Virtually all of this value is located in the contested area. As noted previously, this area then represents 1.2% of the total taxable value of the Borough. The Lake and Peninsula Borough has an estimated taxable real and personal property value of \$32,116,000. Thus, in terms of relative taxable property value, the contested area represents 15.9% of the total taxable value of the proposed Borough.

The issue of potential revenue goes even farther than this however. Currently the KIB levies a 4.5 mill areawide property tax and no sales tax. The proposed Lake and Peninsula Borough will levy a 1% sales and use tax. Although the tax structure of the proposed borough is unknown at this time, presumably the tax will be levied at the point of fish sale, as currently implemented by at least one other borough in the state. The Alaska Department of Fish and Game in Kodiak has reported that the 1988 value of salmon caught for the mainland of the Kodiak Management Area (from Cape Douglas to Cape Kilokak) was \$13,938,400. Noting that this was an unusually large catch (30% - 50% higher than the average poundage for the area) with record prices, the Department has conservatively estimated the value of salmon in the area at \$6,000,000. Since the KIB levies no sales tax, these fish offer no sales tax revenues to the KIB. However, since the Lake and Peninsula Borough will levy a 1% sales and use tax, these salmon alone represent a potential \$60,000 to the new Borough. Putting this figure into relative perspective, this is 8.8% of the total local revenues for the Lake and Peninsula Borough. On the other hand this is only 1.2% of the total local revenues to be generated by the KIB. Thus, to the Lake and Peninsula Borough, the loss of sales and use tax revenue is far more significant than to the Kodiak Island Borough.

Finally, the area offers relatively little to either municipality in raw fish tax returns since the salmon are already being processed within the boundaries of the Kodiak Island Borough. The Alaska Department of Fish and Game as well as the petitioner have indicated that fish processing may occur on floating processors (there are no shorebased processors in the contested area) but it would be limited to bottomfish catcher/processors. Any raw fish tax revenues from this activity would be relatively insignificant since the bottomfish stock have been extensively harvested and there is very little activity at this point.

Thus, while the Department considers neither government infeasible if the contested area remains outside the respective jurisdictional boundaries of either one, the area is relatively more valuable to the Lake and Peninsula Borough than it is to the KIB. Therefore, the Department concludes that the Lake and Peninsula Borough's argument is definitely more persuasive and meritorious than the KIB in this regard.

Clearly, both claims to the region are meritorious in their own right. Both governments appear to meet the standards for their respective actions (see complete report for discussion of the degree KIB meets annexation standards; also see the complete report for the Lake and Peninsula Borough incorporation entitled Report and Recommendation to the Local Boundary Commission - on the Petition for Incorporation of a Lake and Peninsula Borough); both governments appear to be capable of serving the territory; and neither government would be rendered financially infeasible if the territory were located within the boundaries of the other. However, given the fact that claims are laid to the same territory by these two regional governments under the conditions stated herein, the Department finds that the weight of evidence supports the proposed Lake and Peninsula Borough. Thus, it is the opinion of the Department that the proposed Lake and Peninsula Borough be allowed to include the contested area within its proposed boundaries.

However, because of the legitimacy of the claims on the part of both regional governments, it is also the opinion of the Department that if the Lake and Peninsula area fails to incorporate as a borough during 1989, the Local Boundary Commission should forward a legislative review annexation recommendation to the 2nd Session of the Sixteenth State Legislature that the contested area be annexed to the Kodiak Island Borough.

Recommendations

1. The Local Boundary Commission approve the annexation of the Semidi Islands and Chirikof Island and clarify the boundaries of the KIB. The boundaries of the Kodiak Island Borough would then read as follows:

Beginning at 56° 16' 10" North Latitude, 157° 07' 40" West Longitude, thence; thence northeasterly to a point at 56° 28' 00" North Latitude, 155° 12' 00" West Longitude which is the mid-channel of Shelikof Strait; thence continuing along the mid-channel of Shelikof Strait to a point at 58° 45' North Latitude; thence northeasterly to a point three geographic miles northeasterly of the northwestern peninsula of Ushagat Island; thence continuing along a line that is three geographical miles north of Ushagat, West Amatuli and East Amatuli Islands; thence along a line that is three geographical miles seaward from the Pacific coast of Shuyak, Afognak, Marmot, Spruce, Kodiak, Woody, Ugak, Sitkalidak, Two Headed, Geese, Sitkinak and Chirikof Islands; thence along a line that is three geographical miles south and west of the Semidi Islands; thence northwesterly to 56° 16' 10" North Latitude, 157° 07' 40" West Longitude, the point of beginning.

With respect to the water areas, the boundaries of the Kodiak Island Borough extend to the limits of the State's jurisdiction under AS 44.03.010.

2. The Local Boundary Commission approve inclusion of the contested area within the proposed boundaries of the Lake and Peninsula Borough. However, inclusion is contingent upon successful borough incorporation. Should the area remain unincorporated through 1989, the contested area should automatically be recommended for annexation to the KIB and presented for approval to the 2nd session of the 16th state legislature in 1990.

COMPLETE REPORT

Section A.
ADMINISTRATIVE AND PROCEDURAL INFORMATION

INTRODUCTION

State laws establish the procedures for effecting annexations. They also provide the standards which the Alaska Local Boundary Commission (hereinafter the LBC or the Commission) must use in making its decision on any petition for annexation. The procedures, the selected annexation process, the standards for annexation and the role of the LBC are summarized below.

A. 1. ALASKA LOCAL BOUNDARY COMMISSION

The LBC is the state body whose responsibilities include reviewing and acting upon petitions for annexation and municipal incorporation. The Commission must decide whether each proposal meets the standards for the respective action.

While the Department of Community and Regional Affairs (hereinafter the Department) provides technical and administrative support to the LBC, the Commission is completely independent of the Department and all other state agencies. It is not required to abide by the recommendations made in this report.

The LBC consists of five members appointed by the Governor. One member is appointed from each of the four judicial districts of the state, the fifth member is appointed at large. Commission members serve without compensation. The present members are:

C.B. BETTISWORTH, CHAIR, SERVING AT LARGE
JOSEPHINE ANDERSON, 1ST JUDICIAL DISTRICT
BEN NAGEAK, 2ND JUDICIAL DISTRICT
LAMAR COTTEN, 3RD JUDICIAL DISTRICT
SHELLEY DUGAN, VICE CHAIR, 4TH JUDICIAL DISTRICT

A. 2. STANDARDS FOR ANNEXATION OF CONTIGUOUS TERRITORY

State law requires that certain standards be met before an area may be annexed to a borough. To approve annexation of contiguous territory, the LBC must determine that the borough is "capable of extending and willing to extend services to the annexed area . . . if possible, areawide and non-areawide borough services shall be extended to the annexed area immediately" (19 AAC 10.200).

Additionally, the Commission must be satisfied that the action meets one or more of the following eight standards (19 AAC 10.190(a)) to the extent that annexation is warranted:

1. The contiguous territory is totally surrounded by the borough's boundaries.

2. The land in the territory is wholly owned by the borough.
3. The territory is in need of municipal services which the borough can provide more efficiently than another municipality or the state.
4. There is a reasonable likelihood that growth and development will occur within the territory and that annexation of the territory will enable the borough to plan for and control that development.
5. The health, welfare, or safety of residents of the borough is endangered by conditions existing or developing in the territory and annexation will enable the borough to remove or relieve the conditions.
6. The extension into the territory of borough services or facilities is necessary to enable the borough to provide adequate service to borough residents and it is impossible or impractical for the borough to extend the facilities or services unless the territory is within the borough's boundaries.
7. Residents or property owners within the territory receive or may be reasonably expected to receive, directly or indirectly the benefits of borough government without commensurate property tax contributions, whether borough services are rendered or received inside or outside the territory.
8. The annexation is otherwise necessary to accomplish a valid public purpose.

Further, the law requires that the LBC must find that the post annexation boundaries of the borough would conform substantially to all of the standards set in law for the formation of boroughs (19 AAC 10.220 and AS 29.05.03i). These consist of:

1. The population must be interrelated and integrated as to its social, cultural, and economic activities.
2. The population must be large and stable enough to support borough government.
3. The boundaries must conform generally to natural geography and must include all areas necessary for full development of municipal services.

4. The economy of the area must include the human and financial resources capable of providing municipal services.
5. The land, water and air transportation facilities allow the communication and exchange necessary for the development of integrated borough government.

A. 3. AVAILABLE PROCEDURES

State law (AS 29.060.040 and 19 AAC 10.450 - 19 AAC 10.790) outlines the processes by which municipal boundaries may be altered. For annexations of contiguous territory, a borough has five available procedures. They are:

Local Action/Election - The LBC first approves a petition for annexation. Registered voters residing within the territory proposed for annexation then vote on the question. Owners of property within the area proposed for annexation who are not residents of the area are not entitled to vote. Individuals residing within the existing boundaries of the borough are also prohibited from voting on this matter. Annexation is effected by majority approval of those voting on the proposed action [AS 29.06.040(c)(1)].

Local Action/Municipally Owned Property - The municipality which owns all of the property within an area initiates annexation by passage of an ordinance. The annexation is effective upon approval by the LBC [AS 29.06.040(c)(2)].

Local Action/100% Of Voters and Property Owners - All individuals who own property (including non-residents) as well as all registered voters (including those who do not own property) who reside within the area, petition the municipal government for annexation. The municipality adopts an ordinance authorizing the annexation which becomes effective upon approval by the LBC [AS 29.06.040(c)(3)].

Step Annexation - The LBC approves an annexation petition. The registered voters of the area proposed for annexation vote on the question. If passed by a majority of the voters who vote on the issue, the proposed action is reviewed by the state legislature in the same manner provided below. This method of annexation is to be used when services are to be gradually extended to the annexed area over a period not to exceed five years [AS 44.47.567(b)(2)].

Legislative Review - This requires approval of the petition by the LBC and subsequent tacit approval of the petition by the Alaska State Legislature [AS 29.06.040(b)].

Section B.
LEGISLATIVE REVIEW METHOD OF ANNEXATION

INTRODUCTION

In accordance with 19 AAC 10.600, the LBC may consider all methods of annexation to utilize the most appropriate for each petition. The Department believes that the legislative review method proposed by the petitioner is the most appropriate for the subject proposal.

B. 1. LEGISLATIVE REVIEW AS THE MOST APPROPRIATE

As demonstrated below, alternative methods of annexation are unavailable. Therefore, the legislative review method is determined to be the most appropriate process.

Local Action/Election - This process is not available because there are no voters in the territory proposed for annexation.

Local Action/Municipally Owned Property - This process is unavailable since the Kodiak Island Borough does not own the territory proposed for annexation.

Local Action/100% of Voters and Property Owners - This process is not available because property owners have not petitioned the Borough for annexation (there are no resident voters).

Step Annexation - This process is reserved for annexations which anticipate gradual extension of municipal services to the area over a period not greater than five years. This process requires the approval of voters in the area. Since there are no voters, the process is unavailable.

B. 2. LEGISLATIVE REVIEW PROCESS

Petitions for legislative review annexations are processed in accordance with AS 29.06.040 and 19 AAC 10.185-220 and 19 AAC 10.450-620. The process is summarized as follows.

1. A petition with supporting brief is submitted to the Department.
2. The form and content of the petition are reviewed by the Department to determine whether they are substantially proper and correct.
3. If the form and content of the petition are found to be substantially proper and correct, submission of the petition is publicly noticed by the petitioner.
4. The Department prepares a report and recommendation to the LBC on the proposed annexation.

5. The LBC conducts a publicly noticed hearing in or near the territory proposed for annexation. This requirement may also be fulfilled by the LBC conducting a hearing via teleconference.
6. Within 90 days of the public hearing, the LBC renders a decision to accept or reject the petition or to accept the petition but amend the boundaries of the territory.
7. If approved by the Commission, and in compliance with the Federal Voting Rights Act, the annexation proposal is submitted to the U.S. Department of Justice for tacit approval.
8. A recommendation for the annexation is submitted to the state Legislature within ten days of the beginning of the next regular legislative session.
9. If not specifically rejected by a majority of the members of the House and Senate within 45 days of submission, the annexation is approved.

The earliest that the proposed annexation could be accomplished is March, 1989.

Section C.
COMPETING PETITIONS

INTRODUCTION

In August, 1988, regulations went into effect which provide standards for the LBC to consider and act upon concurrent but separate petitions for local boundary changes. The current annexation petition is being submitted to the LBC for concurrent consideration with a petition for borough incorporation from the Lake and Peninsula School District. The latter includes within its proposed boundaries a portion of the territory proposed for annexation by the Kodiak Island Borough. This chapter provides a profile of the petition for borough incorporation as well as the shared regulatory standards to be applied to these petitions.

C. 1. LAKE AND PENINSULA PETITION FOR INCORPORATION

The Lake and Peninsula region has petitioned the Local Boundary Commission for incorporation as a home rule borough encompassing approximately 26,675 square miles of land and 2,075 square miles of water. The boundaries of the area essentially conform to the boundaries of the Lake and Peninsula School District. This region consists of the Lake Iliamna and Alaska Peninsula areas between the boundaries of the Kenai Peninsula Borough on the north and the Aleutians East Borough on the south. The area is home to 1,469 persons residing in sixteen small communities. Also under consideration with the proposed incorporation is a request by the Levelock Village Council for inclusion of that community and surrounding territory within the boundaries of the proposed borough.

The notable aspect of this proposal is the fact that it is requesting inclusion of a portion of the territory proposed for annexation by the Kodiak Island Borough (see Exhibit A). This "contested area" is that portion of the Alaska Peninsula whose rivers drain into Shelikof Strait or the Pacific Ocean from the boundary of the Kenai Peninsula on the north to Cape Kumiik on the south, and all adjacent waterways to the state's three mile jurisdictional limit. The area has no permanent residents although reportedly there are approximately one dozen dwellings of various types scattered throughout.

C. 2. REGULATORY STANDARDS FOR COMPETING PETITIONS

In order for the Local Boundary Commission to concurrently consider a petition which includes some or all of the area under petition through another local boundary action, the competing petition must be received by the Department within 90 days after the date of receipt of an earlier petition that embraces some or all of the same territory (19 AAC 10.833(b)). In this case, a petition for borough incorporation from the

Lake and Peninsula School District which includes a significant portion of the land area proposed for annexation by the Kodiak Island Borough was received by the Department on November 10, 1988. The Department received the petition for annexation by the Kodiak Island Borough on October 14, 1988.

In considering competing petitions concurrently, the Commission, in accordance with 19 AAC 10.835(d), will give precedence to the petition that, in the judgment of the Commission, serves the best interest of the state. In determining the best interest of the state, the Commission is bound to consider, but is not limited to the following factors:

1. an existing or prospective municipality's ability to better serve the territory embraced by the competing petitions;
2. the extent to which approval of a petition would affect the financial viability of the existing or prospective municipalities that have filed competing petitions; and
3. the extent to which each competing petition satisfies the standards required . . . for the action proposed by the competing petitions.

Section D.
ANNEXATION PROCEEDINGS/BACKGROUND INFORMATION

INTRODUCTION

There are a number of activities which have preceded the preparation of this report. These events are briefly profiled in this section of the report as well as the rationale for the proposal.

D. 1. PROCEEDINGS TO DATE

On May 5, 1988, the Assembly of the Kodiak Island Borough adopted Resolution No. 88-33-R authorizing the submission of the petition now before the LBC. On October 14, 1988, the Department received the petition. Following a review of the petition on October 16, the Department notified the petitioner's representative that the form and content of the petition were found to be in substantial compliance with applicable laws and regulations.

The petitioner published notice of the filing of the petition in the Anchorage Daily News on October 27; the Kodiak Daily Mirror on October 26 and November 2, and in the Borough Post, the Bristol Bay Times and the Aleutian Eagle.

The LBC has scheduled a series of hearings on this matter and on the simultaneous proposed incorporation of the Lake and Peninsula Borough. These meetings will be held in the following locations on the noted days:

Kodiak	December 2, 1988
Iliamna/Newhalen	December 3, 1988

(An effort will be made to connect the following sites to the Iliamna/Newhalen hearing via teleconference: Igiugig, Levelock, Kokhanok, Nondalton, Pedro Bay, Port Alsworth)

Port Heiden	December 3, 1988
-------------	------------------

(An effort will be made to connect the following sites to this hearing via teleconference: Egegik, Pilot Point).

Chignik Bay	December 4, 1988
-------------	------------------

(An effort will be made to connect the following sites to this hearing via teleconference: Chignik Lagoon, Chignik Lake, Ivanof Bay, Perryville)

Following the hearings, the LBC may conduct a decisional session to act on the petitions. The meeting will be conducted in Anchorage on December 4, 1988

Notice of the hearings was published in The Borough Post on November 11, 18 and 25; The Kodiak Daily Mirror on November 15, 16 and 17; the Anchorage Daily News on November 16, 17 and 18.

Notice was also published in the Alaska Administrative Journal. In addition, a copy of the notice was mailed to all parties as required by law and at least sixty-five others who the Department believes may be interested in this matter.

D. 2. REASONS FOR ANNEXATION

The petition indicates two primary reasons for the proposed annexation. The first is to provide the Kodiak Island Borough with the jurisdictional control to address problems created by floating processors in the area proposed for annexation. These problems include solid waste disposal, loss of raw fish tax revenue and reduced on-shore fish processing. The second reason, according to the petitioner, is to provide the Borough with the ability to effectively influence state and federal policy and regulatory decisions over the same area.

Section E.
AREA PROFILE

INTRODUCTION

This section of the report establishes the "setting" for the proposed annexation. The following is a brief description of the territory proposed for annexation and the area proposing annexation.

E. 1. AREA PROPOSED FOR ANNEXATION

The area proposed for annexation comprises 12,830 square miles (see Exhibit A - map of territory proposed for annexation). Of this area, there are an estimated 2,130 square miles of land and approximately 10,700 square miles of water. All land areas are within State jurisdiction. However, approximately 9,014 square miles of waterways are beyond the State's three mile limit.

The land area consists of all those lands on the Alaska Peninsula which drain into Shelikof Strait and/or the Pacific Ocean extending from the Kenai Peninsula boundary on the north to Cape Kumlik on the south. It further includes Sutwik Island, the Semidi Islands group as well as Chirikof Island. Waterways generally consist of all of Shelikof Strait from the Kenai Peninsula Borough boundary on the north to that water area three geographical miles south of Sutwik Island, the Semidi Islands and Chirikof Island.

The following are the outstanding characteristics of the territory proposed for annexation.

- ° Significant size. In relative terms, the magnitude of the proposed expansion is large. The territory currently embraced by the Kodiak Island Borough boundaries contains 9,565 square miles. Annexation of the entire area as proposed by the petitioner would more than double the existing size of the Borough.
- ° Kodiak Lands. A portion of the area proposed for annexation is within the boundaries of the Kodiak Corporation and an undetermined number of selected lands lie within the contested area.
- ° Absence of residents. According to the Kodiak Island Borough, the area proposed for annexation is uninhabited.
- ° Limited tax base for the KIB. The area proposed for annexation represents approximately 1.2% of the taxable real and personal property of the KIB. It further offers relatively little revenue from state shared taxes for fish processed within the boundaries of the KIB.

Competing Interests. Approximately 2,130 square miles of onshore territory, Sitvik Island and adjacent waterways within the proposed annexation area are sought for inclusion within the proposed Lake and Peninsula Borough (see Exhibit A).

S. 2. KODIAK ISLAND BOROUGH

The Kodiak Island Borough currently consists of all the islands in the Kodiak Archipelago; from the Barren Islands on the north, to the Trinity Islands on the south. The community of Kodiak, located on the northeast end of Kodiak Island, is approximately two-hundred fifty miles south of Anchorage.

The Borough contains six cities and one unincorporated community governed by an IRA Council. The populations of the communities range from 102 in Kariuk to 6,686 in Kodiak. Approximately 6,000 additional people reside in the "Kodiak Urban Area". The population of the Borough currently totals 14,375.

The economy of the borough is dominated by the commercial fishing industry. There are 17 fish processing plants operating in the borough with another 4 that are functional but not currently working. The Borough states that virtually every type of service needed by the fishing industry is available in Kodiak. Approximately 80% of the fish processing work force is comprised of year-round local residents and approximately 95% of the total service industry work force is comprised of year round borough residents.

The Kodiak Island Borough is a second class borough which was incorporated on September 30, 1963. It currently operates with a mayor form of government and a seven member assembly elected at large. As noted previously, it levies an areawide real and personal property tax at the rate of 4.5 mills. It levies no non-areawide taxes. Each service area levies additional taxes for the provision of specific services. The KIB proposes no service area for the territory proposed for annexation.

Section F.
APPLICATION OF COMPETING PETITION STANDARDS

INTRODUCTION

State statutes and administrative regulations of the Local Boundary Commission establish one standard for consideration of competing petitions. This standard however is defined by at least three factors. In this section of the report this standard is clearly stated followed by a discussion of how each factor is satisfied by the competing petitions. Each factor is phrased as a question and printed in bold letters.

STANDARD:

In considering competing petitions concurrently, the Commission will give precedence to the petition that, in the judgment of the Commission, serves the best interest of the State.

The best interest of the state is determined by answers to the following questions.

F. 1. Which municipality is better able to serve the territory embraced by the competing petitions?

Because the contested area is uninhabited, the demand for services is limited. The KIB observes the need for two services in the area. These are solid waste collection and disposal and land use planning, platting and regulation.

The KIB has noted that it currently provides solid waste disposal for floating processors and fishermen of the area. It further anticipates expansion of this service as the requirements of MARPOL mandate an adequate number of receptacles at the Port of Kodiak for on-land disposal of garbage from fishing vessels. The KIB contends that it will bear the cost of increased waste collection and disposal since Kodiak is the port of call for vessels frequenting the waters of the contested area. The Department observes however, that the City of Kodiak, not the Kodiak Island Borough, will actually bear the majority of the cost of whatever increase in waste collection is required since it is the city who actually provides this service to users of the harbor.

In terms of land use planning, the KIB claims that the area will benefit from its coastal management plan. However, there is nothing to indicate that the proposed Lake and Peninsula Borough would provide the planning and coastal management services any less effectively than the KIB. Currently coastal management is provided in the contested area by the Bristol Bay Coastal Resource Service Area Board. The Lake and Peninsula Borough petition states that planning powers will be assumed immediately upon incorporation and the borough will enforce the coastal management plan at that time. As borough governments